

NYPL RESEARCH LIBRARIES



3 3433 08239188 3

copy!

A ✓

(Sullivan)

June 7



Digitized by the Internet Archive
in 2008 with funding from
Microsoft Corporation

Sullivan
Amore

✓ AN
~~1584 E~~

L I F E
OF
JAMES SULLIVAN:

WITH
Selections from his Writings.

BY
THOMAS C. AMORY.

VOLUME II.



BOSTON:
PHILLIPS, SAMPSON AND COMPANY,
13 WINTER STREET.

1859.

Entered according to Act of Congress, in the year 1858, by
THOMAS C. AMORY, JR.,
In the Clerk's Office of the District Court of the District of Massachusetts.

Stereotyped by
HOBART & ROBBINS,
New England Type and Stereotype Foundry,
BOSTON.

TABLE OF CONTENTS.

CHAPTER I.

PROFESSIONAL LIFE

Early preparation — Character as a lawyer — Character as an advocate — Case of Freeman — Case of Gordon *vs.* Gardner — Case of Mary Ford — Case of Smith *vs.* Dalton — Case of Jason Fairbanks — Anecdotes — Argument in case of Wheeler, 1

CHAPTER II.

ATTORNEY-GENERAL.

1796—1801.

Candidate for governor — Municipal reform — Pejebscot claim — Case of Abijah Adams — French war — Cockades — Canvass for presidency, . . 53

CHAPTER III.

ATTORNEY-GENERAL.

1801—1804.

Early rising — New administration — Letters to William Eustis — Federal judiciary — Plain Truth — Death of Sammel Adams — South Boston — Mill Pond — Municipal reform, 85

CHAPTER IV.

POLITICAL SENTIMENTS.

Party spirit — Party creeds — Federalists — Republicans — Political opinions,

CHAPTER V.

C A N V A S S.

1804—1807.

Presidential election — Constitutional society — Western lands — Case of Conner — Attorney-general — Case of Selfridge,	139
---	-----

CHAPTER VI.

A D M I N I S T R A T I O N.

Levi Lincoln — State governments — Address — Courts of sessions — County-attorneys — Republican measures — Militia law — University,	192
--	-----

CHAPTER VII.

A D M I N I S T R A T I O N.

International law — Decrees and orders — Case of the Chesapeake — Impressment — Right of search — Proclamations — Canvass for president, . .	216
--	-----

CHAPTER VIII.

A D M I N I S T R A T I O N.

Embargo — Speech — Judiciary — Betterment law — Troubles in Maine — Pickering correspondence — Proclamation,	255
--	-----

CHAPTER IX.

A D M I N I S T R A T I O N.

British influence — Embargo — Speech — Electoral colleges — Non-intercourse — Last illness — Death,	277
---	-----

OBITUARY, BY JOHN Q. ADAMS,	320
---------------------------------------	-----

FUNERAL SERMON,	328
---------------------------	-----

EPITAPH,	349
--------------------	-----

LEGISLATIVE TRIBUTE,	350
--------------------------------	-----

SKETCH, BY SAMUEL L. KNAPP,	353
---------------------------------------	-----

MEMOIR, BY JAMES WINTHROP,	365
--------------------------------------	-----

CORRESPONDENCE,

LETTER TO COUNCIL, 7 November, 1775,	368
--	-----

“ “ SAMUEL FREEMAN, 21 January, 1776,	370
---	-----

“ “ “ “ 27 “ 1776,	371
------------------------------	-----

TABLE OF CONTENTS.

V

LETTER TO BENJAMIN LINCOLN, 31 January, 1776,	371
“ “ “ “ 7 February, 1776,	372
“ “ PEREZ MORTON, 8 February, 1776,	373
“ “ SAMUEL FREEMAN, 12 February, 1776,	374
“ “ JAMES WARREN, 4 June, 1776,	375
“ “ SAMUEL FREEMAN, 19 June, 1776,	375
“ “ JOHN SULLIVAN, 30 August, 1779,	376
“ “ ELBRIDGE GERRY, 25 December, 1779,	378
“ “ BENJAMIN LINCOLN, 4 August, 1781,	380
“ “ “ “ 26 September, 1781,	382
“ “ “ “ 16 January, 1782,	383
“ “ “ “ 4 November, 1782,	384
“ “ “ “ 18 November, 1782,	386
“ “ HENRY KNOX, 17 December, 1783,	389
“ “ RUFUS KING, 25 October, 1785,	389
“ “ “ “ 25 February, 1787,	390
“ “ RICHARD HENRY LEE, 11 April, 1789,	391
“ “ ELBRIDGE GERRY, 13 August, 1789,	392
“ “ “ “ 30 August, 1789,	394
“ “ SIR WILLIAM JONES, 7 February, 1795,	395
“ “ TIMOTHY PICKERING, 5 November, 1798,	396
“ “ MRS. CUTLER, 30 March, 1800,	398
“ “ JAMES MADISON, 20 May, 1802,	399
“ “ JOSEPH S. BUCKMINSTER, 2 April, 1806,	407
REPLY, 3 April, 1806,	407
LETTER TO JOHN L. SULLIVAN, 13 December, 1806,	411
APPENDIX C,	413

CHAPTER I.

PROFESSIONAL LIFE.

THE life of a lawyer in full practice is necessarily one of ceaseless toil, and, where the nature is not selfish or hardened, one also of constant anxiety. The well-being, the fame and fortune of his client in his keeping, he moves on, in his honorable career, under a heavy burthen. With his heart peculiarly sensitive to all the various shades of human suffering and calamity, which constitute the field of his daily experience, investigations of legal questions, requiring analysis as patient, and reflection as profound, as any in metaphysics or theology, are to be calmly prosecuted, often on the very verge of an embittered forensic discussion, the more formidable from his inability to anticipate the precise period of its approach. Numerous rules and principles, a boundless range of precedents, and nice distinctions in pleading and evidence, must be continually present to his mind, and his faculties kept fresh and energetic for conflict, ready for attack, or to parry, according to the position assumed by his subtle antagonists.

Burke well called the law the noblest of sciences, quickening and invigorating the understanding more than all other learning put together. His early life had been occupied with its study; but he had never been so identified with the bar as to give his opinion a professional bias. Indeed, when we consider the vast amount of knowledge, and many noble qualities of our nature, in perfect training,

essential to the performance of the higher professional duties, we are disposed to concede full praise to those, who, by arduous discipline, qualify themselves to render to society services of such indispensable importance to its welfare. In return the community has been always disposed to recognize the practical tendencies of legal culture to open and liberalize the mind, and, wherever the system of government has been based upon principles of human freedom, placed especial confidence, in all matters of political interest or public concernment, in their legal advisers.

The system of law prevailing in this commonwealth at the time of its reorganization, eighty years ago, materially differed from that of the present day. From the mother country we had inherited various principles and rules of practice, transmitted from a remote and less enlightened period of history, and originating in a condition of society very dissimilar from any existing in America. We are prone to consider the progress of our own times more rapid and considerable than that of previous eras. In this we are probably mistaken. Among the numberless blessings Providence has permitted human reason to devise, now seemingly as essential to our comfortable existence as the air we breathe, it is not easy to trace the exact order of their original germination or development; yet their regular succession has not been the less constant, because not at all times perceptible. There have been epochs in the history of nations when, in several respects, civilization has been retrograde; but, since the Reformation and the general diffusion of knowledge through the press, the march of improvement has been steadily onward. All the sciences have shared in the movement, and, under the benign influence of the great central principle of common sense, the three-fold combination of justice, reason and truth, the law, breaking free from its feudal trammels, has been making more rapid strides towards perfection than at any

period since the days of Justinian. American legislation inspired by the spirit of liberty, and aided by the general intelligence of the people, has been particularly bold and innovating; and, while sufficiently conservative still to draw its vitality through the ancient roots of the English common law, justly regarded among our most valuable heir-looms, marks are to be found everywhere throughout our statutes of the influence of democratic principles. The present relation of debtor and creditor, the simplification of real titles and suits at law, the relaxation of the law of libel, and abrogation of the death penalty for various offences, and of infamous punishments, such as cropping, branding and the pillory, are instances, among many, of changes in a great measure resulting from our free institutions. If our jurisprudence be not altogether as symmetrical as if fashioned anew, it has been pruned of many of its decayed branches and useless excrescences, is hardy and healthy, and well suited to secure the peace of society, and protect our rights and liberties. It has commanded the respect of foreign jurists, and in some of its more important developments has served as a model for the most enlightened of nations, our own mother country.

But, during the earlier portion of the forty years James Sullivan was engaged in professional life, the ancient system remained for the most part unimproved. Much of the legal learning of the day was to be sought in a barbarous language, locked up, from all uninitiated in its mysteries, in uncouth black-letter. The few treatises and books of reports in the country were not collected in any complete library, either public or private, but scattered about among the profession. Every lawyer possessed his manuscript volume of forms, copied out when he was a student, with the additions provided by his own practice; and possibly, if particularly fortunate and provident, possessed besides of some few notes of cases adjudged in the courts

of the province. The first volume of Blackstone's Commentaries was published in 1765, the year Sullivan became a student, and by the time of his assuming his that on the bench, some ten years later, had become well known on both sides of the ocean. These Commentaries, Burrow's Reports, Coke upon Littleton, Wood's Conveyancing, Hobart, Saunders and the Year Books, were among the standard authorities. Judge Sullivan made an effort to procure a valuable collection of legal works from England; but the vessel bearing the precious burthen was lost or captured on its passage. During the Revolution the law libraries of the refugee lawyers were confiscated, and those of the capital were deposited in the Province House. Instances are found of legislative resolves permitting the judges to purchase these volumes at a fair valuation, and one, in the year 1779, authorizes the sale to Sullivan of the Modern Entries, the Pleas of the Crown, Foster and Hawkins, and the Reports of Strange, Keyling and Burrow, which had belonged to Gridley.

The leading cases were generally familiar, but, often based on facts rarely if ever occurring in American experience, they demanded the nicest discrimination in settling, by the feeble and uncertain light they afforded, the new questions which arose. If, with these scanty aids to professional learning, less time was consumed in the study, the reasoning powers were called into more vigorous exercise in the application of established principles; and, trained and strengthened by this discipline, the bar of that period, in proportion to its numbers, would not, to say the least, suffer by a comparison with that of later days, notwithstanding the present greatly increased appliances for professional excellence. Having no magazine of cases in point to select from, for the government of the case under advisement, the lawyer had more often than now to arrive at his conclusions by the aid of abstract rules and principles. One, who has left a colossal reputation for

reasoning and eloquence, is said to have prepared his arguments pacing his office; and, when requiring authorities to sustain his positions, to have summoned one of his students from the adjacent apartment, and, stating the law, directed a search to be made in the books for the appropriate citations.

Special pleading, which, through several centuries, had, by the wisdom and experience of the great sages of English law, been gradually matured into a science, was adopted generally in American practice before the Revolution, and continued, down to a recent period, to prevail in the courts of Massachusetts. The general issue might be pleaded by agreement of parties, but the usage was to adhere to the rules. Demurrers, with all the varieties of pleas, replications, rejoinders and rebutters, were in frequent requisition; and, in case of error, the penalty, costs, or a continuance, rigidly exacted and enforced. This admirable system of professional logic for defining, elucidating and determining, the precise points in litigation, had a twofold advantage: it developed and strengthened the reasoning faculties of the lawyer, while it economized the time of the court by abbreviating his argument and confining it more closely to the issue.

In endeavoring to present a just estimate of the professional character of Sullivan, some dependence must necessarily be placed upon tradition. This is, fortunately, so far corroborated by the recorded opinions of competent judges, his cotemporaries, that there is little likelihood of being betrayed, by partiality, into unmerited eulogium. Many members of the Massachusetts bar still remember him well, and have kindly contributed their recollections to this present sketch. Their impressions were formed after he had already somewhat passed the meridian of his power, when the fertility of his imagination had been checked and his health impaired by approaching age. They compared his forensic efforts with those of his great compet-

itors, the giants of the law; with the extensive learning and vast intellectual strength of Parsons, the majestic grandeur of Dexter's rhetoric, and the honeyed flow and brilliant sparkle of Harrison Gray Otis. Yet all unite in conceding to him the merit of great sagacity in the management of his causes; of unrivalled ascendancy over the minds of the juries, and of an eloquence the more effective, that it was rarely studied or premeditated. They speak with profound respect of the extent and thoroughness of his legal attainments, and of the wise and generous views he brought to bear upon the settlement of questions not already decided. We all daily realize how much our opinion of others is affected by party bias. Yet, neither in his own day nor since, has the estimate of his abilities been very sensibly prejudiced by reason of his political sentiments; although, as a republican and democrat, his creed was deemed heretical and dangerous by the majority of the community among whom he resided.

There were circumstances in his training peculiarly favorable for professional success. With ardent aspirations for distinction, and incited by the example of his elder brother, whose judicious counsels directed his efforts, he had devoted himself, during his legal apprenticeship, with great assiduity to study. What books he could procure he had thoroughly mastered. His mind, naturally philosophic and comprehensive, readily grasped the great principles of jurisprudence; and his memory, well disciplined and retentive, accumulated as he went vast stores of points and precedents. The early imposed necessity of earning subsistence for his family stimulated his energies; and, entering upon practice in a scantily peopled district, he had few competitors, to discourage, by their superior standing and experience, the free development of his natural powers, or check that most essential requisite for efficient service at the bar, confidence in himself.

The ancient landmarks being broken up by the Revolu-

tion, and government, law and public sentiment, alike in a state of transition, social rights and duties, the groundwork of legal science, were resolved, as far as depended upon human sanction, into their original elements. A large share of the work of reconstruction, in harmony with the more liberal notions introduced by our political emancipation, devolved on the judges and the leading lawyers. Sullivan was ambitious and industrious, and applied himself with zeal to his portion of this duty. His association in the work with such profound lawyers as Cushing, Paine and Sargent, afforded the best facilities for a deep insight into the reasons and principles upon which all legislation should be founded, and a high standard by which to measure his own conclusions. He was no slavish follower of other men's opinions, but sufficiently independent to think for himself. They were all too thoroughly practical and sensible to indulge in theoretical fallacies, and, at the same time, too enlightened to be deterred from innovation by any unreasoning respect for ancient doctrines. Their task was accomplished with no violent changes, but not without revising our whole body of laws, the organization of the tribunals, and their rules of practice. The beneficial influence of these labors over the subsequent professional career of our subject cannot be too highly estimated.

For a long period prior to the adoption of the state constitution the correspondence of Sullivan proves his mind to have been much occupied upon the subject of government. The liberalizing tendency of these studies is distinctly perceptible in the broad and elevated views presented in his controversial writings, and was probably not without its effect upon his legal arguments. Some of those reported or referred to fully justify this conclusion; and cases, involving important questions of this nature, were of constant occurrence in his practice.

It will possibly be remembered that, after the burning

of Falmouth, in the autumn of 1775, Sullivan, while a member of the Provincial Congress, in connection with Gerry, drafted a bill, which John Adams pronounced the most important document in our history, for the organization of courts of admiralty. He was appointed judge of one of the three districts into which the commonwealth was divided. Questions, in the discussion of which he took part, constantly arose during the war, under the law of nations; and, engaged afterwards in practice among a people largely interested in navigation and commerce, his knowledge of maritime law became necessarily extensive and accurate. His writings prove him to have been familiar with the works of Grotius, Valen, Puffendorf, Vattel and Burlamaqui, and other standard authorities upon these branches of his profession.

The appropriate discharge of his duties upon the supreme bench required incessant study; and the hearing of cases must have served as the best of discipline for his subsequent efforts at the bar. Nor could the two years he held the office of judge of probate have failed to contribute much valuable learning upon the important subjects within the cognizance of that tribunal. His extensive investigation of the land-titles of New England, as commissioner to establish our right to land west of the Hudson, peculiarly qualified him for the management of the numerous controversies, under Indian deeds and ancient charters, which long occupied our courts. The documentary and traditional evidence, upon which such claims depended, was not generally accessible, and any lawyer who was fortunate enough to possess unusual facilities for the solution of these intricate questions was sure of constant employment.

If his varied experience upon the bench and as a legislator, combined with unwearying powers of application, conduced to make him a learned lawyer, the incidents of his life and his natural endowments eminently qualified him for

an able advocate. Brought up in the country, and familiar from childhood with the customs, habits and employments, of a rural community, and well skilled himself in its duties and its sports, he thoroughly understood the sentiments and prejudices of that portion of his countrymen from among whom, out of the larger towns, juries were generally selected. From constant intercourse with men of all conditions and pursuits, he acquired a thorough knowledge of their habits of thought, and his mode of argument instinctively adapted itself to meet their peculiarities. His personal popularity was equal to that of any member of the bar; and when it is remembered that nearly one fifth of the whole population of the commonwealth, during the Revolution, were at different periods upon the army rolls, it is not surprising that one who had been prominent in the contest as he had should have been a favorite advocate.

His manly frankness and cheerfulness of temper conciliated affection and esteem, which were never chilled by any pride of opinion or manifestations of superiority. Generous and ardent in his impulses, and keenly alive to all that is noble and elevated in character, he, at the same time, made ample allowance for human infirmity, and seldom indulged in harshness of censure. If, indeed, injustice invoked denunciation, he did not hesitate to expose it in its native deformity; but avoided, where he might, all excess of personal invective. His integrity and love of truth condescended to no artifice or exaggeration, and saved him from ever presenting the painful spectacle of one vainly endeavoring, by transparent glosses, to cover facts too stubborn for concealment. This sincerity inspired confidence, and often was of itself persuasion. Directness of purpose is more effective with juries than ingenuity of argument; and, rarely losing cases he should have gained, he was frequently successful with the right against him.

One remarkable excellence in his forensic reasoning was

the distinct and forcible enunciation of his leading propositions. His own ideas were clear and well defined, and, clothed in expressions direct and to the point, were easily understood and remembered. His illustrations were happily selected; and an imagination fertile and glowing, yet chastened by good taste, frequently relieved the sobriety of a dull topic by its unexpected sparkle and warm coloring. He had great command of language; and, if an occasional disregard of some rule of rhetoric betrayed want of early training, his style possessed vigor and animation. His reasoning was close, without losing clearness; and his main subject rolled on smooth and strong, borrowing, in its course, from every surrounding object, beauties to please and to persuade.

He rarely aimed to play the orator. But his sensibilities were easily aroused; and when the subject justified, his earnestness, kindling a responsive glow in the jury, and even invading the grave precincts of the bench, poured itself forth in resistless eloquence. His pathos is said to have frequently drawn tears from those who heard him, and often from eyes little given to such gentle effusions. There is no school like the legal profession for the study of human nature. The natural promptings of ambition and of avarice, of envy, jealousy and revenge, the rivalries of trade, the heart-burnings of political contention, and the social and domestic affections that bind humanity together in one sensitive vibration, when diseased, build the court-house and fill the jail. Sullivan had reflected much upon the workings of the human heart, and it was natural that, with the opportunities he possessed, he should have become a master of its science. What abundant facilities it must have yielded for the solution of intricate cases, how greatly it must have contributed to his eloquence as a jury advocate, is too obvious to dwell upon.

Our New England people, if not all diligent students of the Bible, from constant attendance upon public worship

learn without effort its language and lessons. The influence over the popular intellectual training, now usurped by the press, seventy years ago was exercised by the pulpit. The ministers meekly guided their flocks along the paths of revelation, and the Scriptures, as the only approach to the presence of the Infinite, were regarded with awe and reverence. By daily perusal and study, Sullivan was familiar with the books both of the Old and New Testaments. He had unshaken faith in the great truths of religion, and was too constantly under their influence to make irreverent use of biblical language. But when the issues of life and death were suspended in the balance, and the crowded court-room, hushed into profound attention by overpowering emotion, hung spell-bound on his lips, his fervid spirit, soaring above ordinary topics and illustrations, is said to have drawn from the sacred chambers of Scripture the glowing expressions of inspiration with electrifying effect.

“His voice was clear, loud and musical, distinct and emphatic, and his tones adapted to the subject and the audience. He had very dignified manners, and a commanding person, which, when he spoke in court, did not seem to be marred by his lameness. His features were remarkably fine, and their expression intelligent and placid. He was always composed and self-possessed in argument, and too well versed in the science of the law, the technicalities of pleading, and the rules of evidence, ever to be taken by surprise. The great traits of his mind were force, comprehensiveness and ardor. Nothing of consequence in a cause escaped the fulness and intensity of his thoughts. His arguments were clear, close and strong; not calculated so much for parade as to secure conviction. In important cases his addresses were well prepared and digested, and embraced and illustrated all the topics of the question. He had for his antagonists the greatest lawyers then at the bar,—Dana, Lowell, Parsons, Sewall, Gore,

Dexter, and Otis, — and, if not first, was in the very first rank. His sagacity so justly adapted the course of his argument to the persons whom he addressed, that it may be questioned whether a public speaker had ever appeared, before his death, in the state, whose ascendancy over the minds of the juries of the country was so general and permanent as his."

The practitioners at our bar were then limited in number, well acquainted with each other, and generally distinguished for their liberality and gentlemanly bearing. Even measured by the then existing standard, Sullivan is said to have been remarkably courteous, and never betrayed, by the ardor of forensic discussion, into forgetfulness of what was due to the feelings of others. In the examination of witnesses, he believed truth was more certainly elicited by inspiring confidence than by any effort to intimidate. As attorney-general, he was constantly engaged in causes where life, liberty and reputation, were dependent upon the issue. It is remembered to his credit, that, conscientiously performing his duty to the state in bringing malefactors to punishment, he was particularly tender of the rights of prisoners, and never appeared eager to convict.

In another part of these volumes will be found the memoir of Sullivan, by Mr. Knapp, which is particularly full on his professional career. It has been our intention to avoid as far as practicable the topics there presented, in order that that interesting sketch, earlier in time, and consequently derived from a wider field of information, may be taken in connection with our own for a more complete view of Sullivan's character as a lawyer.

It was not till after the commencement of the present century that we had in Massachusetts any printed reports of cases, except a few published by Sullivan himself in the Collections of the Historical Society. Trials of unusual interest at long intervals were imperfectly reported for the newspapers; and from these we propose to select, for some

slight comment, a few of the more remarkable in which Sullivan was engaged.

The earliest important case reported at length, in which he acted as attorney-general, was the prosecution of Freeman, editor of the *Herald of Freedom*, for a libel on Counsellor Gardiner. As the first prosecution for libel in the commonwealth, and indeed in the country, as also from the standing of Gardiner, and the eminence of the counsel, it attracted much attention. Gardiner, in carrying out his projects of legal reform, spared no one who opposed him, and provoked, in return, severe abuse from those who disapproved of his proposed innovations. He defied the newspapers, and, in the hearing of Freeman, promised his speeches to Russel, of the *Centinel*, if he would publish in full everything written against him by the black-birds, as he termed the lawyers. Freeman soon after inserted in the *Herald* a communication charging upon the counsellor some faults of habit and temper, which could not, without a forced construction, be made to signify anything to his serious prejudice. The grand jury, at the instigation of Mr. Gardiner, indicted the editor, who was defended by Amory and Otis. Gardiner urged the propriety of his being joined with the attorney-general; but to this neither Sullivan nor the court would assent. In order to constitute the publication a libel, the innuendoes of the indictment gave to the language used a signification not sustainable by the manifest intention or the evidence. Upon the strength of Lord Mansfield's decision in the case of Woodfall, the publisher of *Junius*, all the judges, except Paine, instructed the jury that, unless the meaning found corresponded with that charged in the indictment, they were bound to acquit; which they accordingly did. The arguments of the counsel are given in full in the *Herald*. That of Otis, who elaborately prepared and wrote out his arguments, is brilliant and able; and that of his senior counsel, strong and sensible. Sullivan generally trusted to

the inspiration of the moment for his language, though his preparation had evidently been as thorough as the case demanded. His address to the jury was taken down in short-hand by reporters not as expert as those of the present day; but, even with this disadvantage, it is a favorable specimen of his forensic power.

He sketched the history of the English law upon the subject, and stated the rules existing in that country. The Star Chamber had protected the rich and powerful from the attacks of the poor and discontented, but had not interposed to suppress slander from any conviction of its bad tendency. The press had become free in England, in 1694, under William and Mary. To support a civil action for libel the defendant must be charged with crime or some act affecting his person or liberty, or injuring him in his trade or business. But, if true, and without malice, the justification was sufficient. This was not so in criminal prosecutions. The principle that the greater the truth, where one was held up to scorn, contempt or ridicule, the greater the libel, was the law of the state, based upon the English common law. The law of Massachusetts on this subject was altered in 1826; and, by the Revised Statutes, chapter 133, section 6, the truth, upon prosecutions for libels, may be given in evidence, and, if proved, is sufficient justification, if the publication be shown to have been with good motives and for justifiable ends.

Massachusetts had been the pioneer state in abolishing within its borders slavery, and early active in suppressing its abominable traffic. In 1770, two years before Lord Mansfield decided the case of Somerset, the same enlightened principles of justice and humanity had been recognized here by our court in the province. Judge Lowell, one of the wisest and most estimable of the patriots, had caused the clause to be inserted in the first article of our declaration of rights which secured the abolition of slavery in the state; and, shortly after, when our subject was on

its bench, the superior court of the province recognized the right of the whole people, without distinction of color, to equality before the law. In this we would boast no invidious example. Slavery was not of any benefit whatever to our state, and obedience to conscience involved no pecuniary sacrifice. There is little virtue in refraining from what we do not wish to do; and, perhaps, less in censuring others for yielding to what to them is a strong temptation, but none whatever to ourselves.

Rhode Island had passed a law prohibiting the traffic, and affixing a penalty of two hundred pounds for fitting out any vessel for the trade, and of fifty pounds for each slave brought home. Massachusetts, as stated in our chapter on the federal constitution, in March, 1788, passed a similar law. The brigantine Hope, owned by Gardiner, in the spring of that year, was rigged, victualled and manned, at Newport; and, coming round to Boston, cleared for the Cape of Good Hope. Upon the African coast she took in one hundred negroes, who, carried to the West Indies, were sold as slaves. Howell, president of the Rhode Island Abolition Society, and who, four years later, was appointed by Washington upon the commission with Sullivan for settling the St. Croix controversy, acted with Judge Dawes as counsel for Gordon, who sued the owner in Massachusetts, on a *qui tam*, for the penalty for the fitting out at Boston. The defence made by Channing, attorney-general of Rhode Island, and Governor Bradford, was, that Gardiner was not a resident of the commonwealth. The verdict in the lower court was for the plaintiff; and, in October, 1791, the cause came by appeal to the supreme court at Taunton, Sullivan being retained as senior counsel for the prosecutor.

The Boston Centinel, in reporting the outline of the case, says, "Sullivan, the attorney-general, closed in as able and elegant a speech as was ever heard at the bar of the supreme court. We cannot pretend to follow him through

the vast variety of argument which his ingenuity and ardent and prolific imagination led him. Suffice it to say, that he refuted the arguments on the other side. We cannot, however, refrain from stating a few ideas, thrown out by that great lawyer, who is an honor to his profession, and deserves the approbation of his country. He maintained that if defendant, by fitting out the vessel at Boston, did not gain sufficient residence to become liable to our penal laws, the statute was nugatory. Penal statutes should doubtless be strictly interpreted. But an act made to restrain the inordinate lusts of man, to prevent the reign of havoc and destruction throughout one portion of the globe, deserved a more liberal construction; and miscreants, hardened to every feeling of humanity and compassion, who had thrown hundreds of their fellow-men into perpetual bondage and wretchedness, were not entitled to any particular mercy." The verdict was sustained.

The performance of his duties in various capital cases, in several important impeachments, and also in civil cases, is commented upon, with much encomium, in the journals. The case of the *Mary Ford*, a French prize abandoned at sea, and claimed by the English owner, gained for the captors by Sullivan in the federal court against Gore and Dane for the libellee, attracted much attention at the time; as also the trials of Abbot, Burroughs, Wheeler, Blackburne, Stewart, Wheeler, Hardy and numberless others, reports of some of which were published separately, and others in the newspapers.

The case of *Smith and Dalton*, at Lenox, tried in October, 1805, was of great interest, as establishing the liberal interpretation of the third article of the state Declaration of Rights, as to the right of religious worship. The tax-collector of the town of Dalton collected of Whipple, who attended the church of the plaintiff, a Baptist minister, a church-rate for the support of an older parish in the town,

of a different persuasion. Smith sued the town for the tax, and the court decided in his favor. The argument of Sullivan, his counsel, received high encomium for its noble exposition of the true principles of religious liberty.

Among his numerous criminal causes, of sufficient interest to be reported in print, the most celebrated are those of Fairbanks and Selfridge. The latter will be mentioned, at length, in another connection; but some of the facts in the former case may prove interesting here.

Upon the eighteenth day of May, 1801, the ancient town of Dedham, ten miles from the capital, was thrown into a state of consternation by a most startling tragedy. The terrible tidings, that Elizabeth Fales, the most beautiful of its maidens, had been murdered by her lover, were soon widely spread. The parties belonged to families of great respectability in the place, and were themselves familiarly known among the inhabitants. Miss Fales, at the age of eighteen, was just blooming into womanhood, as lovely in disposition as attractive for her personal graces. She had had, somewhat earlier, a youthful fondness for a young man, one of her neighbors, who went to New York, and had faithlessly married another. Disappointment, for a period, preyed upon her health, and she was slowly recovering from her sorrows when Jason Fairbanks, three years older than herself, but who from childhood had known her intimately, completely fascinated by her growing charms, became her wooer.

Unfitted for active pursuits by feeble health and the stiffness of one of his arms, which had been crippled by disease, Fairbanks had been at the Wrentham Academy, to prepare himself for some employment better suited to his bodily condition than life on a farm, his hereditary occupation. He was of a strong, but ill-regulated temper, fitful, and occasionally depressed. His very eccentricity, however, served but to deepen the impressions which his de-

voted attentions made upon a heart naturally affectionate, and somewhat tinged with romance. She realized the defects of his character, and hesitated to confide her happiness to his keeping. Still, a strong magnetic influence, not to be controlled by her better judgment, drew her towards him, and they were frequent companions. Some ancient quarrel existed between their respective families, and Jason could not visit her at home. They found abundant opportunities for meeting, by appointment, at the houses of her friends, and occasionally walked together, when not likely to attract observation, in the woods or by the Charles. Her parents knew something of their intimacy, and disapproved, but do not appear to have directly interposed to influence her to give him up.

Their mutual attachment was well understood in the neighborhood, and excited little comment. Possibly some parental admonition, or else a doubt whether her sentiments would justify her committing herself by a promise beyond recall, led her to discourage his addresses, and at times even to excite his jealousy by receiving kindly the attentions of others. Irritated by this seeming vacillation, and restless under uncertainties insupportable to a lover, he came madly to the conclusion to force her into a clandestine marriage, or terminate his earthly torments by her destruction and his own. While brooding over his plans, he chanced one day to find his niece engaged in writing, and, without awakening her suspicions as to his object, and pretending it merely for sport, induced her to draw up a certificate of marriage, and insert in it the names of Miss Fales and his own.

The day before the dreadful catastrophe was the Sabbath; and the voice of the young woman, one of remarkable sweetness, was heard mingling in the sacred music of the sanctuary. When the afternoon services were over, Jason was her companion on her way homewards, and she was observed to be particularly happy and cheer-

ful. The next day, about noon, after having performed her household duties, she took for her dinner a tumbler of milk, and, attired in a green skirt and calico frock, after the prevailing fashion of the period, she went gayly away to a neighbor's for a book, in which she was interested, and which she had lent to one of her companions. The book was *Julia de Mandeville*; and her friend not having completed its perusal, she sat herself down for an hour, absorbed in the romantic story. About two she sprang up, and, declining her friend's invitation to pass the rest of the day there, as her family were that evening engaged out, she lingered for a few moments at the door, in play with a beautiful child, then took her leave, and proceeded towards home.

Home, however, was not her destination. Changing her direction, she repaired to a solitary place, called *Mason's Pasture*, partly overgrown with bushes and a small growth of wood. Here she met her lover, in all probability in accordance with an appointment made the preceding afternoon when they parted. What occurred in that fatal interview never transpired by his confession. An hour later he was seen approaching her house, covered with wounds, manifestly inflicted by himself with a view of self-destruction. Apprised by his incoherent communications of the existence of some terrible calamity, her father and mother hastened to the place that he indicated, and there found the beautiful girl frightfully wounded in the back and the bosom, her arms and her throat badly bleeding. She made some faint sign as she recognized the voice of her father, but, after a brief interval, ceased to breathe.

In the early part of the following August, the meeting-house of Dedham was densely thronged with the inhabitants and large numbers of other persons, who had flocked from the capital and neighboring villages. Many, unable to find a vacant spot within the building, crowded the area

without. An intense but subdued excitement pervaded the vast assemblage. Chief Justice Dana, with his associates, Paine, Strong and Dawes, occupied the space below the pulpit, and the jury the pews in its immediate neighborhood. Jason Fairbanks, calm and free from any appearance of emotion, though his life was depending on the issue, was the central point of observation. His counsel, Lowell and Otis, with more even than their wonted powers of persuasion, for six hours exhausted ingenuity in vain, in efforts to avert the unhappy doom of their client. The closing reply for the prosecution is described, by those who were present, as one of almost unrivalled eloquence. It was, no doubt, one of the most effective of Sullivan's forensic arguments. It occupied more than two hours in its delivery, and is only partially reported. We present some portions of what has been preserved; and its pathos, and its just and profound views of human duty and moral responsibility, cannot fail to make a forcible impression upon the reader: *

"To request your attention particularly to the importance of the issue, would be doing you injustice; for, without exaggeration, without any aid from fancy, this is one of the most awful catastrophes ever exhibited in real life in any age or country, or sketched by the most eccentric imagination upon the pages of romance. Nor will it be necessary for me to repeat to you what constitutes the crime of murder, with which the prisoner is charged, or that malice aforethought which distinguishes this from other species of

* The report was prepared by Mr. Renaud, a French gentleman, then residing in Boston, and an occasional contributor to the press. He afterwards returned to Paris, and was tutor in the family of Fauchet, once minister to this country. He published, under the name of Jay, a book, called "*Le Glan-eur*," and also wrote a tale, founded on the Dedham tragedy. Judge Sullivan was too busily occupied at the time to correct the copy of his argument, which was taken down in short hand, and much abbreviated, his remarks on the evidence being, for the most part, omitted. A few slight alterations and transpositions have been made in the text where Renaud's report was evidently incomplete.

homicide. These distinctions have been already sufficiently explained to you in the opening, and it is now your duty to make their application to the facts which have been given in evidence. That evidence is conclusive that the deceased, in perfect health, with spirits uniformly cheerful, with everything to make existence desirable, has been stricken down in the bloom of her youth and beauty, and with a knife which is proved to have been, shortly before her death, in the possession of the prisoner, and again immediately afterwards. He, and he alone, was with her when the deed was consummated. The deduction is consequently irresistible that she either destroyed herself, or that he was guilty of her murder.

“In her mind there could have existed no provocation to suicide, even if she loved the prisoner ever so ardently; since, though he could not visit her under her father’s roof, she was frequently with him at other places. Nor does it indeed appear that she had ever made up her mind to become his wife; or that he had, either directly or indirectly, asked the consent of her parents, or that they had forbidden his visits. If she had a fondness for him, she could have gone away and been married to him when she pleased, though, from the badness of his habits, it might have involved her in ruin. To say that her passion was ardent, and that she could be provoked to commit suicide because the object of her affection was not a better man, or in better circumstances, is a supposition too unnatural to be allowed any serious consideration.

“Even in the most romantic pictures and visionary tales we find the fair sex, when sick of life, generally avoiding the ghastly wounds of the knife and dagger, and seeking an avenue through the water, by poison, or strangling. We always find this preceded by melancholy, distemper, or a disposition to solitude and retirement.

“But the wounds found upon the deceased could not have been given by herself. It is altogether impossible that that in her back, directly in, should have been made by her own

arm, even though a formed and deliberate arrangement had been made for the attempt. And if she wished to die, why should she have thus cruelly lacerated and mangled her own flesh? Why should she begin at the thumb, and continue the process to the elbow, dividing the tendons of the arm, under a torture of inexpressible anguish? Why wound the other arm, and by multiplied strokes pierce her own bosom? Had she at first cut her throat, she could not have retained strength to have inflicted the other wounds. If the other wounds were the first in time, she could not have had strength to have made that in her throat. The knife was small, and rather dull. What unexampled fortitude must she not have possessed, to divide the thumb through the sensible membrane of the nail? What part of this project of death could lead her to lacerate her arms, in a manner which could not fail to torture her beyond sufferance? If she meant to cause her life to issue through her breast, why was not the wound there made effectual?

“There is no charge against the deceased for want of purity. So far was she removed from a vice of that kind, that the evidence exhibits the strongest proof of her dying in defence of her honor. Yet it is to be lamented that a want of discretion led her to this melancholy catastrophe. Her particular acquaintance with the prisoner was considered by her parents as an unfortunate and disagreeable circumstance; but it appears, from their testimony, that they had not absolutely interdicted an intercourse. It is a painful thing to make any observation on their want of firmness, or her want of prudence; yet this trial ought not to pass on without such observations being made as naturally present themselves to all who hear it.

“The path of life opens upon the young full of flowers and sweets. It appears direct, and on an easy ascent, where nothing can annoy or interrupt. But, when we have arrived at the further end, the view is changed. We, from that point, look back upon the snares we have fallen

into, as well as the perils we have escaped, and become astonished that we have had a progress so successful. The hazardous journey is drawn in strong colors before our children; but they proceed on, charmed by false appearances, until they have suffered in their turn as we have done before them. We have, however, great cause of gratitude to a kind Providence, that our experience and caution, when assiduously and timely exerted, do save the far greater part of our posterity from those disgraceful enormities which render the existence of a few completely wretched and miserable, and load that of others with distress and calamity.

“Why, then, will not the young, the tender part of the community, avail themselves of the wisdom of those who have gone on in the path of life before them? Why will not the promising young man, in whose character the hopes of his parents are fondly centred, and the blooming beauty, whose countenance sheds the rays of cheerfulness round the domicile of her family, watch the eye of experience, and hang on the lip of matured understanding? If the overweening love of the parents unfortunately robs them of that firmness which they ought to use in the government of their children, one ought to be led to conclude that this alone would incline the child to search for their wishes, and to perform them with alacrity. In a life filled with temptations to errors fatal in their nature, in a path through a wilderness full of dangers and evils, one would suppose that young travellers would gladly avail themselves of the wisdom experience has given. Yet, too many rush on heedlessly over the ruin of thousands who have fallen a prey in the same ways they are pursuing.

“The counsel for the prisoner rely, with a great degree of propriety, for his innocence, upon the circumstances of his birth and education. It is true, indeed, that he was bred in a country where there are as great advantages for the rising generation as are found in any part of the world.

Our public schools maintained at the common expense, give almost equal advantages to every class of people. The poor and the rich man's sons meet there on a footing of perfect equality. Our public worship, fixed at public expense in every parish, is rendered highly respectable by the attendance and the devotion of the wise and good. The public opinion is so firmly fixed, on national grounds, in favor of this institution, that he who treats it with contempt, or even with neglect, subverts his own character. But these advantages do not, nor indeed can they be expected to, have such an entire effect as to perfectly moralize the whole community. The argument, therefore, if it proved anything, would prove that no one, born and educated where they exist, could commit wilful and malicious murder, and would fall but little short of concluding that murder could not be committed in the country. These advantages can never be too highly appreciated; but yet they may be neglected; and, had the prisoner made a due and proper improvement of them, he would not have been in the unfortunate situation where we see him; nor should we have been called to contemplate, in pain and anxiety, the most distressing scene that our country has ever exhibited. I cannot, in justice to the public, pass over this point of the cause, without a few observations on what I consider as great defects of education in this country.

"As the bird is taught the use and effect of its wings and plumage while it is yet in the nest, so the morals of the man are formed in or near the cradle. The parent sometimes feels a kind of animal fondness for the infant; but yet he extends his views and wishes more to the point where he shall be relieved from the trouble of guardianship and the expense of education, than to that where he shall view the child as beloved by the world, or, at least, by the neighborhood, for the correctness of his morals, the benevolence of his heart, and the chastity of his manners. Hence the child observes the public opinion to be treated

with contempt, and gains an unalterable habit of despising it himself. He who does not regard the opinion of the public, places no estimation upon his own character, and soon becomes an unrestrained, licentious profligate, capable of the most atrocious enormities. It is true that a sense of religion is a higher and stronger motive ; but this necessarily involves a love of character. This is not the only defect in the education of families. Parents are too apt to indulge themselves, in the hearing of their children, on such topics as convince young minds that they do not hold vice and debauchery in abhorrence and detestation. This is at once made a constructive license for the commission of vice and wickedness.

“The most prevailing error, however, is a false fondness and misapplied tenderness towards children. The passions and propensities, which, when properly improved, will render life agreeable and happy, and without which life could not subsist, must, from the present state of human nature, be subjected to error on the first opening of the agency of the mind. It is the business, but never ought to be considered as the task, of the parent, to correct the heart, and to direct the tender mind into the proper channel. This requires firmness, watchfulness and perseverance ; but they who, from a criminal disposition to ease, or from a false tenderness, neglect it, sow the seeds of misfortune and misery, and are sure to reap an abundant harvest in the decline of years.

“Idleness is the most prolific source of human woe. It is a rebellion against the mode of our existence. The idle man is an interruption to the business of his neighborhood, and a burden to society. Unless the mind is directed with some degree of ardor to some laudable, or at least reputable pursuit, the imagination will not fail to attend to the calls of animal propensities, and to cultivate unlawful desires. Vices, at which we shudder on their first ap-

pearance, lose all their deformity and turpitude as they become familiar. It is in vain for any one to determine that he will do wrong, and yet that he will not effect his purpose by base and disgraceful means.

"The present case illustrates this hypothesis as fully as any one within the reach of imagination. If the prisoner had made up his mind, as the witnesses swear that he told them he had, to dishonor the deceased, either from the feelings of revenge, or his own propensities, he had given up the powers of self-control, and was no longer a free agent. The circumstances with which the crime would be effected were entirely left to time and accident, while all the means which these might render necessary to the atrocious end were to be expected as of course. The knife might have been borrowed for an innocent employment; and if any one present had forewarned the prisoner, that his habits were so depraved that he might be reduced to a situation in which he would use it to commit murder, he would, no doubt, have considered this kind premonition as a slander. But, when men are carried down on the tide of depravity, they are afraid to notice the landmarks by which their progress might be known, and they, therefore, can never be sensible of their own situation.

"When the prisoner opened his plan, and produced the false certificate, he had, no doubt, a hope of success; but, when the deceased tore the false papers with indignation, disappointment urged him to other methods. He had engaged with his friend to return in an hour, and relate his success; his pride would not allow him to go back with a tale of defeat; for there is, among idle and vicious people, a kind of false pride, erroneously called honor, which drives them on in their career of criminality. Idle men, by an habitual association, seclude themselves from the rest of the community, and have no interest in anything but their own corrupted and depraved opinions of each

other. Their conversation turns on those subjects which increase their depravity.

“When the prisoner exhibited the fatal knife, she could by no means conceive that he would carry his threats into execution, and he, at that moment, perhaps had no intention to murder her. But the imbecility of his strength, and the defect in his arm, rendered her strength superior to his efforts. When she turned on her face to avoid him, he pierced her back to oblige her to alter her position. When he threatened her throat, her arms were placed in its defence, until repeated wounds had removed them. She was then under his control, and, if we could suffer our imagination to dwell on the horrid picture, we might ask why he did not recede from his cruel purpose? He had gone too far; his guilt raised itself up in full portrait before him. His spirits being exhausted in the struggle, gave him opportunity to view it, and he was then reduced, in order to escape punishment, to give the fatal wound in the throat.

“We are called on for evidence of the prisoner’s possessing a disposition of heart capable of so cruel a murder; and yet the very position of the defence maintains that he was a person of great depravity of morals, that he had a heart void of social duty, and fatally bent on mischief. The statement is, that they were in love with each other, and, being crossed, they agreed to destroy themselves; that he induced her to begin; delivered her the knife for that purpose, and encouraged her to her own murder by the persuasion that he would commit another, by killing himself, as soon as hers was accomplished. But how far will this deliver the prisoner from the charge in the indictment? It admits that he was present, aiding, abetting and encouraging, her to commit the felony. If he was of a sound mind, and amenable for his conduct, he was clearly a principal in the murder. For he who hands a weapon to one to commit a murder, and stands by,

encouraging it to be done, is a principal. The books do not, that I recollect, furnish many examples where an accessory to a suicide is considered as a principal. Yet it is laid down as a rule that he who advises a person to take poison is guilty of murder, though he is absent when it is taken. I did not know but that a part of the defence might be rested on the prisoner's insanity; yet his insanity is not pretended.

"To dwell on this point is unnecessary, as the whole defence is founded on conjectures, unnatural in themselves, and in opposition to the tenor of the whole evidence. If their affections were placed on each other, yet there is no evidence that there were any adverse circumstances which could induce them, at that time and place, to deprive themselves of life; nor is there any presumption that she could have been induced to have effected her death in that manner. The most extravagant fictions are resorted to in order to bring this unnatural conjecture within the lines of possibility; but they run away, and refuse to recognize this scene as one of their family. When suicide is the effect of disappointment, the victim is led on alternately by hope and despair, resolved, yet reluctant, until distraction expels the powers of free agency, and the horrors of death are no longer felt. But that is a process demanding length of time: moments or hours cannot be sufficient for it. In the scene we contemplate, the transition is, in a moment, from cheerful ease and tranquillity to despair and voluntary death, by a process of unexampled torture.

"Observe the picture pressed upon you in the defence. The ardent lover delivers the knife to her in whom his joys and wishes are concentrated; he calmly sits and sees her cut herself in pieces. The blood flows from her wounds to soothe his vexatious passion, while her groans and agonies are music to his ears! The herds bellow around the drops of wasted blood; the tiger mourns over

his groaning companion; and the wolf licks the blood from the wounds of its dying young; but the prisoner not only endures for a long space of time, but enjoys the agony and distress of her who shuns other company for his, and whom he pretends to have loved with an ardent passion. Is there anything more than this position, as given to us in his defence, necessary to prove that he had a heart void of social duty, and fatally bent on mischief, the genuine and natural description of malice aforethought?

“But this picture is drawn to exhibit the ardent but unfortunate lover. God forbid that a passion so divine should be thus wrapped in the savage robes of cruelty and murder. I now again call your imagination to an image from whence the eye turns with horror, and of which language refuses a description. When he had produced the false certificate, and she had, with a virtuous indignation, torn the imposition in pieces, he became enraged. Perhaps the knife was first exhibited to obtain by terror what he feared he could not obtain by force. She turned on her face; the stab on her back altered her position; her shoes and shawl were thrown off in the struggle. When her arms defended her throat, the wounds were given in her bosom to remove the obstruction, and her arms and hands mangled to gain access to the neck. Thus far led on, he found no retreat; but gave the ghastly wound which more immediately produced her death. But I quit the horrid and distressing scene.

“Motives are called for, which could induce him to so foul a deed. We have inquired for motives for her conduct, if she murdered herself, and have found none. Were men never adjudged guilty of crimes until sufficient motives to the commission of them could be shown, no one could ever be found guilty. When the crime is proved there can no longer remain a question whether there was an inducement. Perhaps, strictly speaking, there can be no motive to criminality, or even to vice,

because sin carries its own punishment, as virtue carries its own reward.

“The indictment sets forth that the prisoner, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, committed the murder. There is no scale by which the footsteps of wicked men are regulated, nor are there any established charts by which their courses are directed. It is in vain to bring the weakness and folly of their conduct as an argument that they would, if they had committed the fact, have acted with more caution and circumspection; because caution is the result of reflection, and circumspection the habit of wisdom, and were they wise, and did they reflect, they would avoid the evil. The idea that wicked, depraved and abandoned men can form their plans with the same wisdom and prudence as men of virtue and goodness do theirs, is as absurd as it is to suppose that the tortoise can soar like the eagle, or the wolf possess the benignity of the elephant. Cunning and fraud never point men to direct paths; and when they are caught in the snares of criminality, reflections on the way they might have gone constitute their misery. The progress of vice in the human heart is seen and lamented, in various forms, and may, from the evidence in the present case, be traced as perfectly as in any one which is seen in history.

“This unfortunate young man had no object to pursue. Debilitated by sickness, he was unable to labor. The arts and sciences did not excite his ambition, or offer him a stimulus. The false fondness of parents, by undue indulgences, had fixed him in the habits of uncontrollable obstinacy, and wrapped him in an insensibility commonly produced by an idle, unaspiring life. Yet, nevertheless, the propensities of the heart might run to rank and poisonous weeds; and those lusts, which the want of employment generally produces, became predominant in his inclinations.

“There is evidence that he entertained the idea of re-

venge against the parents of the deceased; that he conceived, then endured, and finally cherished, the idea of *their* ruin, by ruining her. There is evidence that he intended to render her miserable, by engaging her to an undue and unlawful marriage; and full proof that he intended to violate her chastity by force, unless she would yield to the disgraceful proposal.

“He said to two witnesses, that unless she would agree to go off to Wrentham and marry him, he would ruin her. He could not mean to do this with her consent, for if she would consent to so dishonorable a proposal, she certainly would agree to become his wife; and, if he once overcame her, she was then of course devoted to him. There can be no doubt, then, that he intended to effect her dishonor by violence, unless she would consent to her own ruin by a clandestine marriage, or by a conduct far more disgraceful.

“It is warmly urged in the prisoner’s favor, and as evidence that he did not commit the fact, that he did not flee, but went to her father’s house immediately, when he might have gone elsewhere and escaped. Flight is naturally the evidence of guilt. He who fled from a house with a bloody sword, when a man was found murdered, had his flight used as evidence against him, as strong presumption of his guilt. The flight of the guilty originates in the fear of justice, and is urged by the hope of concealment. But what hope could the prisoner have had? The dead body could not be concealed; the blood would remain obvious; he had told two witnesses that he was going to meet her then and in that place; two witnesses saw him go towards the pasture; he intimated to both the wickedness of his design, and suggested the same idea to one of them in direct terms, and to another by his solicitous inquiries whether anybody was to be near the place where he was to meet her that afternoon. When the body should be found these circumstances must have appeared. Had he

fled to the woods he must have been found, and his flight would have been evidence against him. When it was seen that she was murdered with a knife, and there had been proof of his having borrowed a knife, if he could not produce it, this would have been against him. If he had shunned her house and returned to his own, the blood on his clothes would have been his accuser; for, if he struggled with and wounded her on the ground, he must have had his garments stained with her blood before he shed any of his own. If he had buried his clothes, he must have gone home naked; if he had washed them, he would have been detected before they were dry. There was no way then than this, that when he was thus surrounded with difficulties, to rush on in the same path, fatal and bloody as it was.

“There was a quantity of blood sprinkled on the shrubbery for several feet square, about two rods from her body, and towards her father’s house. He there, no doubt, wounded himself; and whether he intended to kill himself, or only to do as much as would maintain a story suddenly formed from the distraction of his situation, is of no moment in the trial. If the former was his intention, he did it because he found no way of escape. If he stood oppressed with the enormity of his crime, and wished to escape through the horrid door of suicide, is it not strange that this should be used as proof of his innocence? If the latter was the case, it was quite compatible with the suggestions of low cunning, fixed by long habit, and strengthened by frequent use, under the emotions of guilty horrors. Take it, therefore, either way, and it is a strong argument of his guilt.

“If the conclusions I have drawn are maintained in your minds by the evidence, your consciences engage you to find the prisoner *guilty*; but he is in your hands, independently of my opinion. Much has been said, and often repeated to you, of the inestimable value of human life.

Too much cannot be said on that subject ; but the Author and Preserver of life has fixed a high estimation upon it by saying, that 'He who sheds man's blood, by man shall his blood be shed.' 'The murderer shall not be suffered to live.' You are asked, in a torrent of pathos, to pity and compassionate the prisoner's situation, and to suffer him to live, that he may repent and make his peace with Heaven. But you are to take care not to destroy your own peace, or, by a mistaken pity, to lay a lasting foundation for repentance in your own hearts. You are, in the melting strains of eloquence, reminded of the keen anguish of the parents and brethren of the prisoner, if you should pronounce him guilty. Who can refrain from melting into tears on this melancholy view of the issue ? But are you, by a mistaken substitution of compassion in the room of truth and justice, to violate your duty, and the oath of God that is upon you, and thus to render yourselves miserable, in order to snatch the guilty man from the hand of justice ? When you consider the high, the solemn and sacred engagement you are under, and the awful consequences of a violation of your duty ; the concern, the anguish, the resentment and the applause, of the whole human race, are no more to you, than the motes which float in the atmosphere, and are seen only in the sunbeams.

"You are told that the evidence is only presumptive, and that it ought to be in proportion to the importance of the cause. The importance of the trial ought to excite attention, serious deliberation and great circumspection. But as no mode of evidence is established by law, nor any particular number of witnesses required, you cannot say that the prisoner is innocent if you believe him to be guilty. To say you believe him to be guilty, and yet have no evidence of it, is a contradiction in language.

"Much has been said on the fallacy of circumstantial evidence. But, believe me, a few moments' reflection will convince you that those arguments are altogether falla-

cious. There is scarce a witness against the prisoner whose testimony is not treated with distrust and jealousy by his counsel. The witnesses are treated as if they were mistaken, if not corrupt. What dependence is there, then, on positive evidence? And shall we, then, lay aside all established rules, forsake the standards erected by experience and maintained by justice, from the feelings of pity and compassion? Embrace the same rules here which govern all other cases, and in all the concerns of life, and your task is easy.

“It is demonstrable that no man ever yet suffered for murder but on presumptive evidence in a great measure. I will state a few cases to illustrate this assertion. A servant purchases poison of an apothecary; he serves up his master’s chocolate; his master dies, apparently under the convulsions incident to death from poison of a corrosive kind. The arsenic is found in his stomach; the servant is charged, and cannot exhibit the poison which he had in his possession, or give any evidence of an innocent occasion for buying it. Would a jury hesitate to find him guilty? Yet, here, how many doubts must be solved on presumptive evidence? There is no positive proof that the death was occasioned by the arsenic; there is no positive evidence that the servant administered it to his master, and he might say that the master was sick of life, and took it voluntarily.

“Again, a man is seen to present a fire-arm at, and discharge it towards another; the other falls, shot through the body, and dies of a gunshot wound. What proof is there, besides that of presumptive evidence, that there was lead in the gun? or if there was, that it hit him? And how easy would it be to conjecture that another man, with another gun, at a distance on the other side, discharged it unseen and unheard by any witness, and effected the death? One strikes another with a hedge-bill or stake; he lives a few days, and expires in an apoplexy. Who can say, from

presumptive evidence, that the apoplexy was brought on by the blow? And yet who, acting as a rational man, would doubt it? A man is charged with arson; it is proved that he was seen near the house at midnight with a firebrand: a few minutes after, the house is in flames. Who could doubt of his guilt, unless he should maintain his innocence by evidence? And yet, what is there but presumptive evidence to fix the charge upon him? Could it be insisted on that his brand might have gone out, and the house might have been fired by accident, or by another hand? Goods are found on a person, who cannot account for the manner in which he obtained them. The house whence they were stolen was broken into in the night. Has not this frequently been evidence sufficient to take the life of a man?

“The story of Lord Hale, concerning him who was executed for theft on the evidence of his having the stolen horse in his possession, put there by the real thief, ought to excite great caution. But does it do anything more? How many sorrowful tales could that great man have given us, of men who had wrongfully suffered under direct and positive testimony? But shall we, from thence, never rely on the positive testimony of witnesses? Because the truth of facts in all its forms can be perfectly known to no other than Omniscience itself, are we to involve the world in scepticism, and believe nothing? Are we never to open our eyes, for fear we should see imperfectly? Are we never to act, for fear we should act wrong? Shall we become locally fixed, and cease to move, lest we should fall?

“The important duty of this trial has devolved upon you; and He, who directs the hearts of all who trust in him with upright intentions, will, undoubtedly, aid your devout exertions to do right.”

A few weeks after the trial the condemned effected his escape from the prison. His unhappy fate had awakened

a general sympathy, and successful arrangements had been planned for his rescue. Among those who took a prominent part in this,—according to tradition, which is not always to be relied upon,—was a lady of beauty and much literary reputation, the wife of one already eminent at the bar, and who subsequently rose to its highest office. With a faithful friend, Fairbanks rode rapidly the first day to the Connecticut, one hundred miles distant, and, the following Sunday, reached the Canada frontier. The boat was all ready to carry him across, and he was waiting merely to breakfast, and take leave of his companions, when his pursuers came up. Carried back under a strong guard to Boston, he was escorted, on the tenth of September, by a troop of horse to Dedham, and there expiated his crime upon the scaffold. The Rev. Dr. Thacher, the amiable pastor of Sullivan at Brattle-street, and who was already in the decline which in a few months after terminated his valuable labors, attended Fairbanks to the last, striving to induce him, by prayer and penitence, to secure that pardon in heaven, he could not claim, and indeed appears not to have wished, upon earth. By a curious coincidence, precisely a year even to the hour from the crime, Mason, the owner of the pasture where it was committed, murdered his brother-in-law, and was convicted and executed.

No excuse seems needed for this lengthy recital. The incidents of the tragedy have been made the subject of romance; and persons, residing near the scene of its occurrence, relate the simple particulars of the story with a pathos which requires no aid from the embellishments of fiction. It is one of the legends of New England; and the fast hold it still retains upon popular sympathy has not been probably the less enduring for the charm with which the eloquence of the eminent counsel, Otis, Lowell and Sullivan, have invested it.

The writer of the obituary notice of Sullivan, says that, “During a period of nearly forty years, his practice at the

bar had been more various and extensive than that of any other man in the state; and perhaps there was not in the commonwealth a family but had witnessed, and, it might be said, experienced, the ardent zeal and invariable fidelity with which he espoused the interests committed to his charge." In a letter to Mr. Pickering, under date of fifth of November, 1798, he says, that, to attend to his duties under the commission to settle the eastern boundary, he had given up his practice in the common pleas of Middlesex and Suffolk, which had been equal to that of any one of the profession in those counties; and his practice in the supreme court, which was then as extensive as that of any other practitioner, suffered likewise for a time from the same cause. But it subsequently returned to him, and for the rest of his professional career the court records show that the names of Parsons and Sullivan were entered as opposing counsel in nearly all the important commercial cases.

Moderate fees for consultation he early adopted for his rule, and country clients came long distances for advice, well assured that the best he had to give would cost but two dollars. In his private office was only one chair besides his own, so that their confidence might not be carelessly betrayed. We have it from more than one authority that his efforts were untiring to prevent litigation, and to effect, whenever the angry passions of the parties would permit, an amicable settlement.

He had a kind heart, and took a sympathetic interest in his clients. An instance is mentioned of the case of an aged man, whose estate had been fraudulently conveyed away by a deed, forged by his son. His action to recover was on the docket standing ready for trial, and he was still unprovided with counsel. Late at night he arrived at the country tavern of the county town where the court was sitting, and was soon directed to Mr. Sullivan, as a suitable lawyer to

aid him. The old man had come far in the wet and cold, and, as usual during the term, the house was crowded. Probably for the reason that no other suitable place presented where they could confer without being overheard, Sullivan said to the old man, "You are tired and cold; come to my bed, and before we sleep you shall tell me your case." In the morning the trial came on, and, by his ingenuity and adroitness in cross-examining a witness, he contrived to elicit the important truth; and, much to the joy of both client and counsel, the verdict was in their favor.

Having the largest practice in the state, he was not always, of course, equally successful; and, when dining at Gen. James Warren's, at Plymouth, in speaking of his experiences, he mentioned having defended, in an obstinately contested suit, the case of a man whose substance and well-being were largely dependent upon the issue. He did his best; but, much to his grief, the jury would not see the case as he represented it, and his client was cast. He felt very sad, and, so far from asking a fee, dreaded to see his unfortunate client, who he feared would be quite broken-hearted. He hastened to leave the place, when, to his great relief, as he was stepping into the carriage, the good man, whom he supposed in the depths of despair, came running towards him; and, still full of the spirit of fight, and the glory of being its hero, though unfortunate, with the usual New England indifference to such calamities, cried out in the most cheerful of tones, "Well, squire, we gave them a terrible pull, anyhow!"

Injury is sometimes done to a good cause by excessive argument, and prudence often counsels that the minds of the jury should be left to work out their own conclusions from the evidence. In one instance, where the case stood in a very favorable position for a client suing for an aggravated assault, which had rendered him deformed and a cripple, the opposite counsel, in paying tribute to Sullivan's powers as an orator, deprecated their effect upon the jury.

In rising to reply, Sullivan said his brother had not to fear the influence of any eloquence of his on that occasion. He should simply pray the jury to cast their eyes upon the unhappy plaintiff. It had been proved that he had been reduced from a state of health and strength to this pitiable condition by the unprovoked barbarity of his assailant. They would consider what he had been, and what he was; and with this he felt he could safely trust the case to their sense of justice. The result proved his course judicious. The verdict gave ample damages.

Much of his time was passed in court; and, as attorney-general, he diligently attended its sessions in Maine, on the Cape, and indeed throughout the state. From long habit, he had acquired unusual powers of concentration, and pursued his literary labors and professional preparation in court, surrounded by its bustle and excitement. Much of his History of Maine was collected from persons in attendance of the eastern circuits; and he wrote a great part of that work, his Land Titles, and Criminal Law, in the intervals of official duty in the court-room; often while cases in which he was counsel were on trial. One of his most frequent antagonists was Theophilus Parsons, afterwards, in 1806, elevated to the chief justiceship. Between them often occurred keen encounters of wit; not the less personal and bitter that they were the best of friends in private. One of the most distinguished of the bar of the period, who still survives, in the full vigor of his faculties, after having gained laurels in nearly every path of honor, remembers being in court when Parsons was in argument, and his opponent, Sullivan, seated, apparently quite unconcerned in what was passing about him, was busily occupied with some literary task. No hand, indeed, ever moved more rapidly over his paper than Sullivan's. Ever and anon, as Parsons started some new topic, or reached some fresh branch of the case, full attention was given for the moment, and a few notes rapidly

taken. As the argument proceeded into particulars, Sullivan resumed his former labors, still keeping, as it would seem, one ear on the alert to catch every essential statement of his opponent. When his turn came to close, he rose, calm and composed, to meet every point of his antagonist, and to present his own so clearly, as to make it evident nothing that had been said had escaped him. An eminent lawyer says his father mentioned to him an anecdote of Sullivan, which further illustrates the control over his thoughts which he had acquired by living so constantly in court. He was arguing a case, in a most earnest and fluent manner, when his eye was attracted by a man waiting the close of his address to the jury, for the payment of a bill, whose time he well knew to be precious. Without interrupting the course of his argument, or allowing the attention of the jury to be for one moment diverted from the case, he beckoned the man to approach, took the money from his pocket, made the exact change, and received the receipt. The self-possession evinced in the incident must have been remarkable, or it would hardly have been treasured up by my informant.

For an experienced advocate, the power of discoursing, without limit and without preparation, upon any suggestible topic, is attended with little embarrassment. This was happily exemplified, when, on one occasion, Parsons and Sullivan were opposed to Egbert Benson and Alexander Hamilton, in a cause in the federal court at Hartford, Connecticut. Much to his surprise, the gentlemen from New York challenged the array or whole panel of jurors; a course so unusual that even Parsons was nonplussed. Quietly requesting Sullivan to occupy the attention of the court till his return, Parsons hastened to the office of Oliver Ellsworth, and, after some time employed in examining the authorities, returned with quite law enough to defeat the manœuvre. During his absence, Sullivan, keeping close to the limited point open for discussion, poured forth such

a variety of legal learning, intermingled with appropriate originalities of his own, as to prevent the slightest surmise, on the part of his opponents, that his object was merely to talk against time.

An anecdote, characteristic of Parsons, and also of the war of wits that then occasionally enlivened the dulness of forensic combats, as Sullivan was a party, though somewhat passive, may be appropriately introduced. It is related by an eminent and brilliant member of the Suffolk bar, who witnessed the scene. Sullivan and Parsons were opposing counsel in an insurance case on trial, when Parsons, from some inadvertence of expression,—to impute confusion of ideas to an intellect so logical would be treason,—in painting the horrors of the shipwreck, spoke of the wind blowing off a lee-shore. Sullivan at first doubted the accuracy of his hearing; but when Parsons, in reiterating his argument, to impress it more forcibly on the jury, repeated the same unfortunate blunder, Sullivan quietly asked what kind of wind that could be blowing off a lee-shore. Parsons, always loud and impetuous, and much excited in argument, quick as a flash, turned upon his enemy, and, with the thunder of his stentorian voice shaking the court-house, shouted out, "It was an Irish hurricane, brother Sullivan!"

An incident evincing the respect entertained, by one who was constantly opposed to him in court, for his fairness and liberality, although not particularly relevant to his professional character, has been related by one who was well acquainted with the parties. A gentleman residing in a country town borrowed a sum of money of Judge Sullivan, and placed personal property in his hands to a greater amount, as collateral security. The money was not paid, the collateral never redeemed, and the gentleman many years afterwards died, leaving his estate embarrassed. His son-in-law, in settling his affairs, became acquainted with the transaction, and, consulting Samuel

Dexter, stated to him the circumstances. The security had long been forfeited, and Judge Sullivan was under no legal obligation to make restitution. Mr. Dexter, after some consideration, advised his client to call upon him, and represent the embarrassed situation of the estate and the large family of the deceased; saying, "Put him upon his Irish honor." This was attended with entire success, the judge immediately going to his desk and handing him the difference between the original debt and the value of the pledge.

One principal source of satisfaction to a conscientious lawyer springs from the affectionate regard entertained for him by his clients. The following tradition may serve for an illustration. Towards the close of the last century an elderly farmer of Wilmington was met on the Boston road, by his physician, to whose son we are indebted for the anecdote, with a heavy sack slung across his saddle-bow. Questioned as to the purpose of his journey, he replied, he was carrying some of his best apples to Judge Sullivan's boys; expressing himself, at the same time, towards his legal adviser, in terms of grateful warmth, highly creditable to them both. The fruit had been gathered from a tree, upon his farm, already celebrated in that neighborhood, the parent stock of the Baldwin apple, now greatly multiplied, and the most popular variety of this staple luxury of New England.

He was fond of practical jokes, then more frequently indulged than now among the lawyers, to judge of the anecdotes that are told of them, and this even when he came off himself second best. He occasionally mentioned one of his own experiences, which served to show how rarely they can be practised with impunity. One day, while residing on Bowdoin Square, he was returning, deep in thought, to his house, when he was accosted by a sooty vender of charcoal, who asked him to purchase. He civilly declined, and passed on; but

the man, determined on having a customer, presently rejoined him, and, with much more earnestness than propriety warranted, urged upon him his wares. Provoked at an importunity contented with no denial, the judge bethought himself of an elderly woman, somewhat deaf, and noted in the neighborhood as a termagant; and, to punish his tormentor, told him that, though he did not wish to purchase himself, there lived close by, at the bottom of a court which he pointed out, a good woman, who no doubt wanted coal, and, as she was somewhat peculiar in her disposition, he must not mind if she said she didn't, but leave his load all the same. Delighted at last to find a market, the man, with infinite pains, backed his cart down the long, narrow passage, and, not heeding any expostulations, dumped a basketful in the shed. But the woman's tongue soon proved too much for him; he was obliged to reload and go off discomfited.

Many months after Judge Sullivan had forgotten the incident, he was seated, busily engaged, in his office, writing, his moments particularly precious, when a well-dressed countryman entered the room, and said he wished to consult him. Begging him to be seated, the judge mended his pen, arranged paper for his notes, and requested him to state the facts of the case. Upon this his visitor commenced a long story, in Yankee phrase and accent, about what had happened at a husking on the farm of one of his neighbors; interspersing his account with a great variety of homely detail and unimportant incidents, spinning out his recital with a most tedious plausibility of circumstances somewhat connected yet altogether insignificant, now approaching something which looked like question for litigation, and then again rambling off into an endless rigmarole, minute and full of particularity, of what somebody had said and somebody else had done, but which seemed to have no conceivable bearing upon any possible controversy that could be manufactured into a lawsuit. When

anything presented itself to his mind which might perhaps prove important, the judge jotted it down; and, his usual good nature sorely tried, though he could not fail to be amused at the fragmentary pictures of country life which at times assumed shape in this curious medley, he at last implored his client to keep to the point, and answer such questions as he should put. But, saying he must tell his story his own way or not at all, the man started off afresh, and continued steadily on for half-an-hour more, with such sober seriousness, apparentness of purpose, ceaseless flow and rapidity of utterance, that the amazed counsellor listened in despair, fruitlessly endeavoring to discover some clue to his meaning, while it seemed easier to stop a mill-stream than his tongue. As his patience finally was becoming exhausted, it suddenly occurred to him there was more under all this than he could understand; and, excessively puzzled, he threw himself back in his chair, and, fastening his eyes sharply upon his visitor, exclaimed: "What on earth are you driving at?" The other returned his gaze undaunted, and, with a knowing look of triumph twinkling in his eye, shouted out, with the twang peculiar to his vocation, "Charcoal!" and when the judge, upon whose bewildered faculties flashed instantly the whole affair, recovered from his astonishment, his counterfeit client had disappeared.

A distinguished member of the profession, in a neighboring state, furnishes us with the following reminiscences: "About the year 1802 or 3 I first saw the late Governor Sullivan, on a circuit of the Supreme Judicial Court, at a term at Barnstable. He was attending the court as attorney-general, an office of much more dignity and importance then, than it has been since, and this owing partly to the uncertain tenure of the office. Being then a student at law, I was interested in observing the appearance of the highest law officer of the state. He was employed in a cause involving a right of way 'from necessity.' He

took the affirmative, and defined the various kinds of necessity, explained what constituted a natural, and what a philosophical necessity, which did *not* apply; and then defined a moral necessity, which he contended *was applicable* to his case. His manner was easy and graceful. His reasoning was plausible and engaging. His eloquence was like a full and copious stream. His illustrations were striking and significant, and employed to enforce his main object, in which he was successful. His manner was engaging; and neither the jury nor the bystanders were weary in hearing him.

"A year or two afterwards the writer of this note frequently heard him at the Suffolk bar, where he was more equally matched and opposed by such men as S. Dexter, Parsons, Otis, and others. His addresses to the jury were always marked by that vigorous display of intellectual power and felicity of illustration which it is the prerogative of genius to employ. He was, perhaps, more successful in his addresses to the jury than to the court, with whom he was at times far from being a favorite. He remarked to the reporter, E. Williams, that he 'had always been *crowded* by the court.' To which Williams replied, that 'it might be so, but, if that *was* the case, he believed the crowding had been mutual.'

"It was understood that Mr. Sullivan was distinguished for his generous hospitality, especially to strangers, and for the absence of all penurious habits. His colloquial powers were somewhat remarkable. The writer of this note recollects passing an evening in his company, the first time he saw him, where none were present but young ladies and students. His manner was courteous, affable and dignified. His conversation was free and easy, with no disposition to dogmatize, or embarrass others. Assuming no airs of superiority, which his position might entitle him to claim, all were put at ease, by the frankness with which his opinions and remarks were stated. All

present were led to respect him without being in any degree oppressed by his superiority."

In his criminal causes as public prosecutor, opportunities for inculcating important moral truths were frequently presented, which, as we have seen in the case of Fairbanks, his natural disposition and regard for the true interests of his countrymen led him to improve. We may not have selected the best of our materials to illustrate this or other traits of his professional character. To include them all would be unreasonably to extend this chapter. But, from his many printed arguments in capital cases, we are tempted to introduce some brief extracts from one of them taken from a copy he presented to his young friend and pastor, Mr. Buckminster. On its fly-leaf, in his own hand-writing, is the following passage from Quintilian: "*Nam si regitur providentia mundus, administranda certé bonis viris erit respublica. Si divina nostris animis origo, tenendum ad virtutem, nec voluptatibus terreni corporis serviendum. An hoc non frequenter tractabit orator?*"

"We are informed of instances, where men, possessed of a well-grounded hope of happiness in another world, and tortured with pains, or oppressed with persecution, have been willing to change mortality for a state of existence beyond the grave. Others, who have been chagrined with disappointments in their ambitious or avaricious pursuits, have, in a fit of frenzy, destroyed their lives; nevertheless the continuance of life is an object of the first magnitude with us all.

"The human race is depraved, and man has become the prey of man. Wherever we turn our eyes, we discover the sad works of a general apostasy. We see our world engaged in a contest against that truth and justice, by which the great First Cause, who produced, is pleased to govern it. We see mankind oppressing, and committing depredations on each other. From these evils we fly to the arms of civil society for protection. Civil society

must be maintained by laws; and laws, unless they are sanctioned by adequate penalties, are inefficacious and idle. As man by his nature, cannot act without a motive, and the depravity of his passions and the corruptions of his propensities urge him to the commission of crimes, penalties must be provided equal to the temptations he may be under. Hence it is that nearly all the civil governments on the earth have annexed the punishment of death to those high and aggravated offences, which either endanger the existence of the community, or do irreparable injuries to the individuals of which it is composed.

“It is, indeed, a solemn thing to pass on a question of life and death; and you ought to proceed with the utmost caution and candor to the disagreeable task. The rhetoric which has flowed from the prisoner’s counsel cannot fail to secure your attention to every material circumstance in favor of their client. It will awaken all your rational powers in a cause so interesting to him, and give you a lively sense of your own responsibility. Should it do more than this, it would be an injury to the rules of justice, and tend to a corruption of the laws of the land. I therefore conclude that the eloquence, with which we have all been entertained and gratified, is intended for nothing else but to gain that careful attention which the issue claims.

“It is true that our system of jurisprudence is a system of justice mingled with mercy. Our laws delight in innocence, and are tinged with benevolence. Mercy is a charming word, and it sounds with a soft delight in the pure ear of impartial justice. Mercy is that attribute of the Divine Being in which the sinful race of Adam have, since the apostasy, felt the most interest. But, in this trial, as well as in matters which concern our highest welfare, we ought to be careful not to be led astray by mistaking the nature of this attribute in the Supreme Being, or this affection of the heart in ourselves. The poet well observes, that, ‘A God all mercy, is a God unjust.’ Could

the great Judge of the universe be moved with what we call pity, to pardon his offending creatures merely because they suffer, the distinction between vice and virtue, between sin and holiness, could no longer exist. But, as his mercy can be exercised only in favor of those whose real character brings them within the rules he has established for the exercise of his clemency, his rational creatures know where to place their trust. There is nothing flexible, nothing deviating or uncertain, in his government.

“This affection of the human mind consists in the forgiving men the injuries they have done us. This must be done on proper motives and in a proper manner, or it cannot be considered as such an exercise of the feelings of the heart as is governed by reason, or deserves the name of mercy. The feelings which produce this affection may be extirpated or smothered by the vehemence of depraved and wicked passions, by the indulgence of corrupt and wicked propensities. Ambition hears not its voice while cities are in flames, countries laid desolate, when millions are hurled down to the gloomy regions of death, or other millions, still more wretched, reserved in chains of slavery to gratify the ambition of tyranny. The finer sensibilities of the human heart, from whence it flows, may be extirpated by the claims of habitual avarice, and the wretched victim of misfortune, for no crime but that of poverty, by this disgraceful propensity, be immured from the light and air. The undue gratification even of the softer passions, which serve as the conductors of our lawful pleasures, at intervals may render us deaf to its cry.

“On the other hand, if this affection is exercised from no motive but from our animal feelings, it has no affinity with mercy. We act not from a sense of duty, but to deliver ourselves from that pain and uneasiness, in which the sympathy of our nature has involved us, at the suffering of a fellow-creature. Could we drown the voice of sympathy, or extinguish from the human breast that can-

dle which primarily carries our eyes to its objects, we should lose the character of men. If, when prejudice or personal interest balances its claims, we are not too prone to yield to its persuasion; if, where revenge, malice or resentment, are opposed to pity, there is little danger of too ready an exercise of this affection; whenever we have nothing personally to gain or lose, and no passion to gratify, we must beware lest it mislead us; then we are most in danger of sacrificing to it the rights of justice, by acting without principle. We behold the awful spectacle of one near the gibbet, ready to be launched into the unknown world! What ought to be our wish and our prayer on the solemn occasion? That this awful example may deter others, and that this may be the last victim to the depravity of morals which has brought him to the fatal tree. But should we, then, wish that it was in our power to snatch him from the hand of justice by a repeal, or a suspension of the laws, this would be no other than sedition in its nature, and a dangerous propensity against public justice.

“That our personal sensibilities might not render the laws flexible and uncertain, government is established, formed on general principles, and moved by general laws, obligatory as well on the judge as on the criminal; and here, under certain known and fixed rules, our reason is guided, and our feelings are controlled. We have no other object to pursue than that of a faithful performance of our duty in the execution of known and established principles; that, on the one hand, we may not be answerable for innocent blood, and, on the other, that we may not make ourselves accountable for crimes, offences and distress, consequent upon our rendering the government weaker by a flexibility in the administration of civil justice. When we govern our conduct by rules prescribed by law, exercising all our faculties with diligence, though we err, we are not criminal; but, if we cast off this guide,

and proceed without rule, though we should happen to do right, yet the act is intrinsically wrong; because the merit and demerit of every action depend on the motive which produces it. It is true that, should we err against the prisoner's life, our constitution has made provision for a remedy, in an exercise of power by the supreme executive. But this cannot influence this trial; because we act as much in violation of our duty, if we condemn because there is a chance for pardon, as if we acquit from pity, or because the law is too severe, or from any other wrong or unwarrantable motive. The pardon may never be granted, and a man may suffer death when the jury ought to have acquitted him.

“In the exercise of this power provided in the constitution there are fixed and established rules, which cannot be deviated from with propriety. Should the supreme executive issue a charter of pardon because the law is too severe, this would be the exercise of the legislative authority, which is expressly provided against by the constitution. Should it be exercised because the conviction is wrong, while the judges and jury remain satisfied with it, this would be exercising the judicial power, which is equally against the constitution. A pardon for either of those reasons is an attack on the other constitutional powers of government, and tends to the subversion of the civil jurisprudence of the state. When the pardon is granted to the feelings of pity, it is yet more injurious to that inflexible, impartial justice which is forever necessary to a free and regular government. This measure of justice by mercy, if it is such, can never be even and fit to be relied on. For pity is often excited from unknown, and sometimes from wrong, causes. The feelings of the number, which compose the supreme executive, may not be the same to different persons under the same circumstances; nor are they themselves always alike affected with the same subject. Nothing can be more uncertain in its nature, or

unequal in its exercise, than an authority to pardon offences under the dominion and control of pity.

“It will then be asked, why this power exists, if it is not to be exercised in this manner, for the causes to which I object? The answer is that it is not an arbitrary power in its nature, but is a valuable part of the government, to be exercised on occasions of state policy, and where an innocent person is in danger of suffering from error, or from surprise; and where the exercise of it does not militate with the other powers of the state, or tend to subvert the equality of the government, by an arbitrary extension of mercy to one, while it is denied to others having an equal claim. But it is, however, easy to see that an exercise of the power of pardoning crimes, without the direction of fixed and established principles, is as arbitrary in its nature, though not as dangerous in its consequences, as trials in courts without known and established rules of law.

“There generally is, as there has been in this cause, doubts raised as to the facts, because no adequate motive to their commission can be conceived; or because they have not been committed with such caution as to avoid detection. We know nothing of the numerous crimes which have been hid from the eye of civil justice; but we cannot believe that he who is racked with passions, or urged with unlawful propensities, can act with the circumspection which attends the man of conscious virtue, and the footsteps of habitual integrity. Were we never to believe the existence of a crime, without a perfect knowledge of the motive, many atrocious deeds would pass unpunished. Were we to believe no effects, without a knowledge of their causes, we should be stoics indeed. The facts most familiar to our understanding, and those things urging themselves most strongly on our senses, would be thrown into the dusky mirror of doubt and uncertainty.

"Gentlemen of the jury, you are now in the possession of the evidence, and the arguments for and against the prisoner. I am happy in the confidence that no circumstance in his favor is left without attention by his counsel. Their arguments have teemed with ingenuity, and have been conducted with propriety. You will receive the direction of the judges as to the principles of law by which you are to be governed. If anything I have said is erroneous, it will be corrected by the bench. If anything has fallen from me colored with severity, it did not result from the feelings of my heart. I seek the blood of no man; nor do I delight in the sufferings of the guilty; but, as far as the morals and the safety of my fellow-citizens are committed to my official concern, I realize the solemn obligation I am under to be faithful to my trust."

CHAPTER II.

ATTORNEY-GENERAL.

IN the preceding chapters we have presented whatever seemed of most interest in the private and professional life of our subject, as also some general account of his literary labors, and of the different associations for public objects with which he was prominently connected. It is necessarily but a sketch, and does not profess to be complete. Much remains to be embraced in the general narrative, now again to be resumed.

After his appointment, in June, 1796, upon the commission for the settlement of the eastern boundary, the summer and autumn were chiefly occupied by his visit to Halifax, with the exploration of the Passamaquoddy Bay and its rivers, and in historical studies and investigations for the solution of the knotty questions in dispute. These duties engrossed much time, and, not admitting of his devoting the same attention as before to general practice, he abandoned his business in the common pleas to his son William, then lately admitted to the bar. He also relinquished his office on Court-street, and, erecting a building on his garden for the accommodation of his library and papers, for the remainder of his life occupied this for his professional employments. His practice, which has been stated upon good authority to have been the most extensive and lucrative in the state, and which, in subsequent years, again equalled that of any other practitioner, experienced a tem-

porary decline. His official duties as attorney-general, if we may judge by the cases mentioned in the newspapers, continued unremitting and responsible; and his reputation as a commercial and insurance lawyer, and his familiarity with the law of nations, in that period of maritime disturbance, depredations and captures, soon crowded his office, on Hawley-street, with clients.

The federalists, in the spring of 1796, endeavored, through their journals, to induce Governor Adams, upon the ground of his increasing age and infirmities, to decline a reelection. He had reached the ripe age of seventy-five; but his natural vigor was little abated, and his intellectual powers and great sagacity still abundantly qualified him for his post. Among other names suggested for the succession was that of Sullivan, who not only discouraged his own nomination, but engaged actively in the canvass, defending Mr. Adams from the attacks of his antagonists; and the election again resulted in the choice of the veteran patriot. At the commencement of 1797, however, when the administration of Washington drew to its close, Governor Adams determined to retire; and the public mind in Massachusetts was much exercised in selecting from the leading politicians of the state the most suitable candidate to fill his place. Judge Cushing, Judge Sumner, General Knox, General Heath, Moses Gill and Stephen Higginson, were among the more prominent. The canvass finally settled down upon Sumner, Sullivan and Gill.

Various complimentary paragraphs, advocating the election of Sullivan, appeared in the public prints, not only in the capital, but throughout the commonwealth. His knowledge of the constitution and laws of Massachusetts, and of the federal government, his attention and indefatigable industry in promoting the general prosperity, not only of his own state, but of the country at large, his thorough information as to the sentiments and dispositions of the people, and his familiarity with their agricultural and other

industrial interests, his uncommon activity, perspicuity and facility, in transacting public business, with his known republican principles, and ability to vindicate the rights of the citizens, his distinguished revolutionary services, and his unimpeached moral, private and political character, constituted him, it was urged, the most eligible of the several candidates. These flattering tributes to his merit were echoed by the republican press in the southern and western counties, as also in the district; his personal popularity in Maine influencing a large vote in his favor. But the recent triumph of federalism in the election of John Adams, one of the most illustrious citizens of the state, as president; the discouraging prospects for the cause of liberty in France, with her lawless violations of our commercial rights, and the arrogant tone assumed by her government in the diplomatic relations with this country, had greatly strengthened the federal party, and secured it a decided ascendancy. Many republican votes were lost to Sullivan in consequence of the ancient hostility of Honestus and his friends to the lawyers, and which was now again brought into play in favor of Gill. The clergy were generally strong federalists. They regarded the tendencies of the French revolution as hostile to the cause of true religion; and, distrusting its advocates, exerted their influence, as private citizens and in the pulpit, in favor of Judge Sumner, who was elected by a handsome majority.

Immediately before and during the canvass appeared in the Chronicle, and some of them in other journals, three able series of articles, which were attributed to Sullivan. The first, signed Aristobulus, upon the state of the country and the power of opinion as the basis of government, has less mark of being his composition than the rest. That upon the liability of the states to suits of individuals seems clearly his, and was apparently induced by an apprehension, which fortunately proved groundless, that the constitutional amendment he had so zealously advocated would not

be adopted by the requisite number of states. The last series, upon the proper construction of the treaty-making power, urged that the right of the president and senate to bind the country, by treaty compacts with foreign nations, should be restricted to subjects not explicitly placed within the control of Congress; and that, as to all stipulations falling within its province, the house of representatives had full right to accept or reject at discretion. In practical operation the house must virtually exercise this control, as no money, for example, can be appropriated, or duty laid or removed, without a direct vote of both branches. To these last disquisitions was affixed the signature of A Federalist; and a preface sets forth what that term was intended to signify. The usual interpretation of the constitutional clause is believed to be, that the house must, in good faith, pass all laws necessary to carry into effect treaties made by the president and ratified by two thirds of the senate. This rule has not universally prevailed under constitutional systems abroad. The French chamber, in 1835, refused appropriations for the American indemnities agreed upon by the government; and it was only when they had reason to suppose that persisting would endanger the pacific relations between the two countries, that the bill was passed. The proof of the authorship of these articles is not direct. They were attributed to Sullivan by his antagonists, and various indications confirm the correctness of the surmise. Prominently connected with the canvass for governor, in which he was a leading candidate, some notice of them seemed appropriate. From the important nature of the questions discussed, and their mode of treatment, they may prove of interest, should the principles involved be ever again in agitation.

Not long before the vote was taken, Dr. Belknap, the historian, the friend and associate of Sullivan in the Historical Society, but a zealous federalist and partisan of Sumner, reflected, in a sermon at Hingham, upon the course

of the republican press, and inveighed, with especial severity, against the Chronicle, the paper to which Sullivan most usually contributed his political essays. Soon after the voting day, but before the result of the election was known, Sullivan, over the signature of A Well-wisher to the Clergy, addressed Dr. Belknap, in the print so uncourtously denounced, urging upon him the impropriety of introducing political and party topics into the pulpit. He acknowledged the just claim of ministers to entertain and express their opinions upon public affairs, but recommended that, in the performance of their clerical duties, they should study and explain the correspondence of passing events with revelation; and not, by becoming combatants, lend their sanction to the virulence of party warfare. His influential position in the Congregational Charitable Society depended upon annual elections. But no prudential considerations ever abated his efforts to discourage the clergy from preaching politics in the pulpit, which he deemed inconsistent with their sacred calling, and detrimental to the best interests of society. The address led to several responses, and the controversy continued for some weeks, in a sufficiently amicable spirit on his part, but with less on that of his assailants, who insisted that they were as fully entitled to preach politics and jurisprudence in the pulpit, as he could be to write religion for the newspapers. In the following autumn he again took occasion to express his sentiments, with frankness, upon clerical interference with political topics. His remonstrances were couched in language perfectly respectful to the sacred order, and in temper he still kept the advantage of his antagonists. The controversy was protracted, increasing in bitterness; and when, in the ensuing spring, a political discourse of Professor Tappan, advocating strong federal doctrine, was partially reported in the Mercury, he again, over the signature of Brattle-street, expressed his sense of its impropriety. As Mr. Austin, and, it is believed, Samuel Adams,

wrote also for the public press upon religious subjects, it is not easy to pronounce with certainty upon the authorship of these contributions; and we would not venture to claim all that seem to have been contributed by Sullivan, without more positive proof than we possess.

The vote for governor, in the capital, laid between Sumner and Gill. That this indicated no want of personal popularity in Sullivan, in the place of his residence, is sufficiently manifest from his selection at this period as chairman or member of various committees connected with its municipal reform. At the annual town-meetings in Faneuil Hall were elected some hundred and forty officers for various objects, whose mutual independence, limited power and brief tenure of office, were wholly inconsistent with any great degree of efficiency. If the system was inadequate to the wants of a large commercial metropolis, it involved little expense; the annual tax levied on the citizens ranging from fifty to eighty thousand dollars. When, however, burglars, incendiaries and other miscreants became numerous, and acts of violence of unusual atrocity were, in various instances, perpetrated at night in the streets with impunity, its economy ceased to recommend it. Public meetings were called to devise some remedy for these outrages, and Sullivan was appointed chairman of a committee to devise measures to remedy the evil. The report drawn up by him, recommending a municipal court, town-attorney and a more efficient grand jury, was accepted, and, after some delay, carried into effect. He also presided over a committee, consisting of Jones, Hill, Minot, Austin, Welles and Lowell, to organize a proper watch and ward for the town, establishing patrols, with sufficient reliefs, for each ward. The same committee were charged with procuring enactments from the legislature, for the improvement of the municipal government. Several acts, with a view to this object, were passed; but how far through his instrumentality can only be conjectured. From

his earliest settlement in Boston, he had been unremitting in his efforts to introduce reform, wherever evils existed to be corrected. Among other important improvements suggested at this time, and afterwards adopted by law, was the registry of voters.

After the destruction by fire of the rope-walks, near Fort Hill, in 1794, he had been chairman of the relief committee of the churches, and appointed to suggest modes of protecting the town in future from similar disasters. New England was still clothed with much of its original forest, and most of the dwellings, even in Boston and the larger towns, from the cheapness of this material, were built of wood. Extensive conflagrations were consequently of common occurrence, and attended often by sacrifice of life as well as of much valuable property. Sullivan endeavored to induce a more prudent mode of construction, and a speech of his upon the subject is still remembered, by one who heard it, as eloquent and persuasive; and, through his agency and that of others, statutes, obliging proprietors to build brick partition walls, and to guard against fires by other precautions, were enacted. He was appointed, in 1799, chairman of a committee, consisting of Mr. Otis and Judges Minot, Dawes, Davis, Lowell and Paine, to consider and report upon the will of Thomas Boylston, by which a valuable estate was bequeathed to Boston, for the support of public charities.

He was among the earliest to perceive the important advantage to the world of Jenner's great discovery of vaccination, which was brought before the American public by Dr. Waterhouse, of Cambridge, in the fall of 1799. It had occupied the attention of Jenner for twenty-eight years; when, the preceding year, through his work upon the subject, he introduced it to general notice in England. At first there was some controversy, among the learned, as to its being a permanent safeguard against the natural

disease, but before many years it grew into general favor.*

His employment, under the federal government, did not prevent the frank expression of his views, in the *Chronicle* and other papers, upon the interesting topics of the day; and, while avoiding personalities, he did not hesitate to use his influence as a citizen, wherever his opinions differed from the policy of the administration. Disquisitions upon various interesting political questions, bearing unmistakable indications of his authorship, appeared with equal frequency as before his appointment. Among those attracting most attention, was a series of three letters, over his well-known signature of Tully, addressed, in August, 1797, to President John Adams, upon the Jay treaty. He boldly reprehended the passive indifference of Mr. Adams to unconstitutional encroachments upon congressional rights, when presiding over the senate, and did not scruple to question the propriety of Washington sending Jay to England, without first obtaining the advice and consent of the senate. He conceived it not merely his right, but his duty, to promote, as far as his powers permitted, what seemed to him the best interest of the country, alike indifferent to

* It is an interesting circumstance, connected with the introduction of vaccination, and one not generally familiar, that, in the summer of 1802, in order to remove the lingering prejudice among the people against its adoption, the following expedient was resorted to, with a view of testing and establishing its merits: Nineteen persons, all boys, between the ages of eight and fifteen, and sons of the selectmen and most respectable citizens, were sent down to Noddle's Island, and lodged in an old barrack, a young man with an experienced nurse being placed in charge of them, to regulate their diet, keep them out of mischief, and provide them with amusement. After being vaccinated they were subjected to infection and contagion in different forms, sleeping in the same room with those who had the small-pox by inoculation, and in the natural way; the principal physicians, Danforth, Warren and others, making them frequent visits. The experiment was attended by complete success, no one of them taking the disease. This is a little apart from our subject, but we venture to introduce it, as reflecting great credit on the parents who had the courage and public spirit to permit their children to incur, what to many seemed a great risk, for the general benefit.

the hostility his freedom might provoke, and careless of the prejudice it might work to his own popularity or chances of preferment. What rendered this course the more independent was the fact that he was the disbursing agent of the boundary commission, and the payment of his accounts depended upon the approval of the secretary, Colonel Pickering. In the official correspondence, after the appearance of some of the articles attributed to him, a slight coolness is perceptible. Greatly, however, to the credit and magnanimity of the parties in power, when they became satisfied he was actuated by a patriotic and not a factious spirit, they respected his rights of free expression, and the official intercourse continued friendly and harmonious. It would have been more politic for Sullivan, and have saved him from much misconstruction and annoyance, had he been more reserved. It is easy to perceive that frequently appointments to places of responsibility and distinction were withheld, from jealousies engendered by the unrestrained sincerity with which he commented upon the measures of the government. But prudence, as far as it regarded consequences purely personal to himself, formed no part of his character; and no one, impartially scanning his career, can reasonably charge him with ambition of office or popularity. Among the communications believed to be his were several signed A Republican, and two admirable articles, signed Union, upon the temper, views and consequences of party, in the United States.

For the first thirty years of our national existence both the great parties dividing the country professed an equal distrust of foreign influence. The republicans reproached the federalists with regarding rather the interests of England than the honor and welfare of their own country, while the latter imputed to their opponents undue partiality for France and sympathy with Ireland, then greatly discontented and on the verge of civil war. In a speech, in Congress, upon taxing certificates of naturalization, Mr.

Otis, the member from Boston, said he would place a bar against a restless people, who could not be tranquil and happy at home. He expressed his esteem for some emigrants who had already come over, but did not wish to have let loose among us a horde of wild Irishmen, who had unfurled the standard of rebellion, and were endeavoring to effect a revolution. He would willingly fraternize with those already admitted, but discourage further migrations, and thought twenty dollars not too high a tax for the privilege of citizenship. Immediately after these remarks had been reported, with some exaggeration, in the *Aurora*, of Philadelphia, an article, signed A Republican, appeared in that paper, and also in the *Chronicle*, of Boston, commenting upon the want of due consideration evinced by these expressions, and setting forth the important services rendered by Irishmen in the American Revolution. This, attributed to Austin, who disclaimed it, was probably written by Sullivan. It was followed up by a statement, signed An Independent American, enumerating the grievances of Ireland for many centuries, and justifying her discontent under such oppression. This last was evidently prepared by a lawyer, and there can be little doubt of its authorship.

Another subject, which this year engaged his attention and his pen, was the judiciary of the state. The conservative spirit in Massachusetts had prevented the commissioners for revising the laws, after the adoption of the state constitution, from recommending any very radical departure from the judicial system to which the people had become accustomed under the royal government. Under the statutes of 1782, the judiciary consisted, in the first instance, of justices of the peace, with jurisdiction in their several counties, over civil cases, to an amount not exceeding four pounds, and a few minor criminal offences. Courts of sessions, consisting of all the justices of the peace for the county, had criminal jurisdiction over misdemeanors and felonies not capital, and other functions, as commis-

sioners of highways, supervisors of jails and licensed houses. In each county was a court of common pleas, composed of four judges, who were rarely men of legal training, and Sullivan says not more than three out of sixty were competent to direct juries, as to law and evidence, in making up their verdicts. Finally, in the last resort, the supreme judicial court, with its five judges, had original cognizance of cases of divorce, crimes and misdemeanors, and appellate power over all cases brought up from the other courts. By one defect in the system, several judges presided together at *nisi prius*, for trial of issues of fact; and their charges occasionally disagreeing, the jury then were obliged to decide between them, thus becoming themselves as it were judges of the bench.

With an arrangement so costly and complicated, the discontents, which broke out, in 1786, into rebellion against the judicial tribunals, are no great matter of surprise. Among others, striving to introduce a more simple and economical system, was Sullivan, who, at this period, if the impression of the defenders of the ancient system is to be depended upon as to the authorship, wrote four articles, signed Juridicus, in the Mercury, advocating important alterations, especially as to the courts of common pleas, which he proposed should be organized upon the plan now existing. The sixty judges, among the most influential men in the state, made a vigorous resistance against this proposed reform, and, for the time, succeeded in defeating it. Two able articles, signed Justinian, in the Centinel, a few months later, took the same side as Juridicus; but the legislature refused to make any other modification than to leave with the governor and council the appointment of the chief justices of these tribunals, the judges previously having had no other precedence than that of seniority, from the dates of their respective commissions.

An incident, in the winter of 1798, growing out of a slight misunderstanding between Chief Justice Dana and

Judge Sullivan, occasioned the latter much pain. No one was more generally courteous to the bench than himself; no one more ready to acknowledge the just claim of the judges to the profound respect of all good citizens. After having been employed for many years in prosecuting a suit, in behalf of the commonwealth, to a large tract of land many miles square on the Androscoggin, called the Pejebscot claim, he finally succeeded in obtaining a verdict in full recognition of her rights. This verdict the chief justice set aside as contrary to the evidence. The tenants then proposed a compromise; and a committee of the legislature was appointed to make the negotiation. The attorney-general, in communicating the merits of the case, for their information in reference to the late trial, expressed his opinion, as an inducement for settling the controversy, that it was not to be expected that the state would ever obtain a more satisfactory verdict than the last.

The chief justice, placing upon this language an interpretation which Sullivan promptly disclaimed, construed it into a reflection upon the correctness of his decision. He appealed to the General Court, and several long and interesting communications from both parties are to be found upon its files. While the judicial sensitiveness, which the correspondence betrays, to any supposed reproach, however slight, upon his fairness and impartiality, does high honor to the judge, the respectful deference to the supreme tribunal, and dignified denial of any intentional irreverence, is likewise creditable to Sullivan as a lawyer. Dana was soon convinced of his mistake, and this contention left no rankle. A few years after, Sullivan dedicated to him and his associates his Land Titles; but constant intercourse upon the circuits had, of course, long before restored the accustomed good-fellowship.

During this same spring he was engaged in procuring several acts of the legislature for public objects. With

Mr. Elisha Ticknor, he obtained a charter for the Massachusetts Mutual Fire Insurance Company, the first upon the mutual principle in the state, and under which are now insured fourteen millions of property at about one third of the average premium of stock companies. He also petitioned the legislature, with Mr. Samuel Parkman, for a charter to construct a canal across Cape Cod, at Buzzard's Bay, an improvement by which our valuable coasting-trade would have been saved the long distance and dangers of the outward passage round the cape. Surveys were made, but the necessary capital could not be procured; and, though some preliminary measures were again attempted in 1824, it still remains unaccomplished. A pamphlet, setting forth the history of the various enterprises from earliest times for the object, appears to have been prepared probably by Sullivan, but is believed not to have been printed.

The state of parties in Massachusetts, in 1798, prevented any contest for the executive chair, although Sullivan, as the republican nominee, received many votes. Governor Sumner was rechosen, and, the new state-house on Beacon Hill being now completed, he presided over its public dedication. Upon his decease, in January, 1799, soon after his reelection, Moses Gill, the lieutenant-governor, filled his place, and died in office the following May. Early in 1800, a legislative caucus of the federalists nominated Caleb Strong, of Northampton, at the suggestion of Judge Lowell, who declined himself to stand; and he was chosen by a majority of twenty-five hundred votes over Elbridge Gerry, the republican candidate. There is good reason to believe that Sullivan not only voted for Gerry, but advocated his election in the republican journals.

Sullivan was not again regularly in nomination for governor till 1804. In his correspondence he says that offers of support were repeatedly made him by the republicans, if he would pledge himself to their policy; but, this not

entirely coinciding with his views, that he had declined. Indeed, had he been willing to give up his lucrative practice at the bar, and the office of attorney-general, which he preferred to all others, the well-deserved popularity of Governor Sumner precluded all chance of his being chosen. Moreover, approving, as he did, the recent measures of the national administration to prevent hostilities with France, he was not sufficiently a partisan to keep up, for the sake of political capital, a factious opposition. The judges felt under no obligations to abstain from political controversy, nor was this expected of him. But it cannot be denied that, under elective institutions, neither the bench nor the public prosecutor can, consistently with their duties, take part in party contests. At this particular period Sullivan seems to have been neutral. The papers of the day a little later so describe him, enumerating the parties as three: the federalists, the anti-federalists, and Sullivan.

The impartial performance of his official duties occasionally provoked the hostility against him, not only of individuals, but of one or other of the political parties. A prosecution of Abijah Adams, the junior editor of the *Chronicle*, for a libel upon the legislature, in the spring of 1799, alienated from him several of his republican friends. No act of the administration had been more censured by that party than what was called the sedition law, enacted by Congress the fourteenth of July, 1798. If in some measure justified by the extent of the evil to be remedied, this statute was an obvious violation of the freedom of the press guaranteed by the constitution; and, associated in the public mind with a suspicion of his loyalty to republican sentiments, it essentially impaired the popularity of the president. Virginia, forgetful that an act of similar purport remained unrepealed upon her own statute-book, denounced the law as unconstitutional, and invited the other states to combine in resisting it. The General Court of Massachusetts dis-

claimed all right of passing judgment upon acts of Congress, whereupon the Chronicle pronounced this disclaimer inconsistent with their oaths; thus, indirectly, charging the members voting for it with perjury. Abijah Adams, one of the editors indicted at common law for this libel, and convicted of publishing, was condemned to imprisonment. His counsel, Blake, argued that all crimes should be defined by statute, and that it was inconsistent with the genius of our free institutions that citizens should be liable to prosecution under the common law of England. In the discharge of his duty as public prosecutor, Sullivan urged, with great zeal, that, if there was no statute against such libels, the common law of the country, which was common reason, prohibited such outrages; that the law, as practised in England before our ancestors came over, did the same; and that the practice had been supported by our courts. This case was not to be distinguished from other offences which, for their description, depended upon the common law, adopted here and established by the constitution of the commonwealth. The party charged had liberty, upon his trial, to give the truth contained in the libel as evidence, but could not pretend that there was any truth in it.

Soon after the indictment, Sullivan would seem to have denounced it, in two able articles, as a flagrant violation of private right; but, as attorney-general, he was bound to urge the law as recognized by the tribunals. The republican writers termed, in reproach, Judge Dana the apostle of the common law, and Sullivan was likewise visited with their censure. The prosecution reflected little credit upon the federalists. The libel charged was but slightly objectionable, while their own papers teemed with articles, far more to be reprehended, of which no notice was taken by the grand juries. The trial took place as the spring elections were approaching, and his official duties placing Sullivan in a somewhat hostile attitude towards the repub-

lican party, their nomination for governor was given to General Heath.

Another incident of this prosecution was the publication of a parody of the debate between the fallen angels in *Paradise Lost*, entitled *The Demos in Council, or Bijah in Pandemonium*; a sweep of the lyre in close imitation of Milton. This was generally attributed to William Sullivan, son of the attorney-general. The writers for the *Chronicle*, *Honestus*, *Junius* and *Democritus*, take part in the discussion, of which the scene is laid in the prison of the unfortunate editor. Without particular merit, it has its value, like the *Jacobiniad* of Dr. Gardiner, in presenting the federalist cotemporary view of some of the republican writers. The death of Thomas Adams, the senior editor, changed for a time the character of the *Chronicle*. For many months, under the editorship of Mr. Rhoades, its columns were thrown open to the writers of all parties. Sullivan continued a contributor, but wrote also for the *Gazette* and *Mercury*, both, with a slight distinction, federal journals. In the latter, soon after the sentence of Adams, appeared an article, signed *A Republican*, defending the course of the attorney-general at the trial.

One of his favorite signatures at this period was *Plain Truth*. More than twenty years earlier it is to be found affixed to his contributions to the press, and over it, in April, 1797, he thus enumerates twelve principal objections to hostilities with France: "The following is an exact statement of the inevitable effects which a war with the French republic would produce in this country. The people must weigh them well; on their decision depends the lasting prosperity of our infant establishments; and they, no doubt, will prefer the calumet of peace to the war-whoop of the Centinel. *Imprimis*, the immediate ruin of our Newfoundland fishery; the decay of Marblehead, Salem, Newburyport, and all the ports at the eastward; the failure of the owners, and the distress and beggary of the

fishermen and their dearest connections. 2d. The fall of our navigation to one quarter of its present value, and our seamen beating the streets for want of employment, without even a hope from privateering; as the most profound statesman the town of Dedham has produced has long since deprived them even of this consolation in their misery, by assuring the public, that the trade of France was absolutely 'burnt to the water's edge.' 3d. The inevitable destruction of our whale fishery, and of all who are engaged in this manly occupation. 4th. The fall of real estate in town and country; poverty among the tradesmen, and bankruptcy among the merchants in general. 5th. An increasing price to foreign commodities, and a decline of value to our home productions. 6th. Fifty thousand soldiers to guard our seaports; idleness instead of industry; our religious duties neglected, our morals impaired, and our taxes without limits. 7th. An alliance, offensive and defensive, with royalty, against liberty; the remaining trade of the country in the hands of British factors; English habits and manners; perhaps even English troops again quartered in our capitals; our money exported in exchange for their baubles, and French crowns as scarce in the country as an honest attorney or a penitent aristocrat. 8th. The ruin of private and public credit; a paper medium; old debts discharged with new emissions of it; the debtor enriched, and the creditor starved. 9th. The funds at seventy-five per cent. discount, probably even at less value, and a total check to all future discount at the banks, state or federal. 10th. The suspension of our future quarterly payments at the loan offices, and an appropriation of the reduced product of the excise and import to pay our soldiers, to build our frigates, to provide magazines, and to defend our sea-coasts. 11th. The ruin of our liberties and rights. 12th. The grass growing in State-street in Boston, in Broadway at New York, and the superb market of our continental metropolis converted

from its present use to be the receptacle of a half-starved American soldiery, or an insolent band of British grenadiers."

Provoked by the Jay treaty, regarded, with reason, as a violation of the alliance of 1778 with that power to which we owed, in a measure, our independence, her cruisers molested our trade, confiscating our property to the value of millions; and the sufferers, and, ere long, the community, became generally incensed and disposed to retaliate. Elbridge Gerry, a republican, was sent in June to Paris, in the hope that, through his coöperation with Pinckney and Marshall, already there as our representatives, the disputes might be adjusted. But the envoys were long unable to obtain even an audience of Talleyrand, then in charge of the foreign relations of the Directory; and, as there existed little prospect of any amicable settlement, the two republics appeared rapidly drifting into a state of actual hostilities.

From a conviction that less was to be gained by arms than by negotiation, and that, in the existing condition of the country, peace, if consistent with national honor, was its true policy, the republican leaders endeavored to assuage the angry spirit of resentment at these repeated aggressions. Among many able articles deprecating war, which appeared in their principal journals, was a long letter by Sullivan, signed Grotius, addressed to Judge Samuel Sewall, then a member of Congress, arguing that the arming of private vessels for resistance or reprisal, as recommended by the federal press, would inevitably lead to hostilities. In articles of his, signed Junius and Plain Truth, the claims of France to forbearance are set forth, upon the ground of former friendly services, with various reasons to prove the impolicy of assuming a war-like attitude beyond our means to sustain. In others, believed to be likewise from his pen, it was argued that our interest was better consulted by joining France and

Spain in support of the modern principle of maritime law that free ships make free goods, than by hazarding, through a closer alliance with England, what we claimed as the rights of neutrality. Her trade, flooding our markets with her merchandise, discouraged the industry and enterprise of our own people, drained our specie, and deranged our currency. It would be a foolish policy to wage an expensive, and possibly a disastrous war, for the sole benefit of her manufacturers.

A long letter to Mr. Otis followed up the argument in that of Grotius to Sewall, against the policy of private arming. This elicited a response, addressed to General Heath, whom Mr. Otis erroneously supposed, or affected to suppose, his correspondent. To this Heath replied; and a writer in the *Mercury*, assuming the signature of *Americanus*, well known as one of Sullivan's, commented, with some severity, upon the general, for venturing a contest with so formidable an antagonist. Sullivan, resenting the appropriation of his signature for such a purpose, the more that Heath had become the favorite candidate with many of the republicans, in opposition to himself, for governor, defended Heath, and poured a broadside into the assailant, who, under false colors, had thus treacherously attempted to stir up strife between himself and his friend and competitor for the suffrages of the republicans.

That, in his unremitting efforts to prevent a war with France, Sullivan may have been somewhat influenced by an affectionate interest in the land of his fathers, then engaged, with French assistance, in a struggle for her liberties, there seems little reason to doubt; but he was too loyal to advocate, from any motive whatever, a policy which he could suppose detrimental to the honor or true interest of his own country. There was, indeed, much in the existing condition of Ireland to enlist his most active sympathies. Vast numbers of her people were disaffected with the government; the country was kept in constant

alarm and agitation, by Peep-of-day boys and other illegal combinations ; and armed rebellion set law and authority at defiance. Had not the winds and waves prevented Hoche, with his fifteen thousand French troops, disembarking in aid of the insurrection, the result, according to the opinion of Rufus King, then commissioner in London, would have been the severance of the British empire. It proved a useless struggle ; and, after martial law had been proclaimed, and twenty thousand royalists, and more than double that number of insurgents, had been massacred, was suppressed. Yet, while it lasted, it could not fail to foster the liveliest hopes in the bosoms of American sympathizers that it would terminate in the political regeneration of an unhappy and kindred people, then suffering under every social and political calamity.

When the discreditable proposal, indirectly made to our envoys at Paris, to place fifty thousand pounds in the private pocket of Talleyrand as a preliminary to negotiation, was known in this country, a profound and universal burst of indignation at what public opinion was then virtuous enough to consider a dishonoring and unpardonable breach of diplomatic decorum, alike insulting to the envoys, and disgraceful in the French minister, overpowered any attempt at palliation. The friends of France were silenced and disconcerted ; negotiations were broken off, and our ministers received their passports. Gerry alone lingered a while in Paris in the hope, doomed to disappointment, of affecting some arrangement. In his June message the president declared he would never send another minister to France, without assurance that he would be honorably received, and recommended to Congress immediate preparations for war.

Congress authorized the levy of twenty thousand men, the issue of letters of marque and reprisal, ordered an increase of the navy, imposed a land tax, declared the French treaty of 1778 no longer binding, and passed the alien and

sedition laws. Three frigates, the *Constitution*, *United States* and *Constellation*, were built, and three hundred and sixty-five private vessels commissioned. Washington accepted the command of the army, and selected Hamilton, Knox and Charles Cotesworth Pinckney, for his subordinates. The national spirit was aroused. Both press and pulpit blew the clarion for battle. Capitalists built frigates, fitted out privateers, and lent their money or their credit. For one moment even party forgot its animosities, and the republicans ceased to jeer at the war-hawks. But dangers from without could not long repress the virulence of contending factions, and the combat was soon again renewed, and with redoubled ardor. The black cockade, with its silver eagle, which Washington had devised for the army, was assumed, in the larger towns, by the federalists, for their special cognizance. Their opponents, unwilling to adopt what they considered rather the badge of party than of patriotism, were hooted at in the streets, and, in some instances, subjected to violence.

When the feeling of indignation at ministerial turpitude had partially subsided, the republicans argued that apart from the corrupt proposition of Talleyrand, one not then unusual in European diplomacy, the basis of negotiation submitted to the envoys was far from objectionable; that the purchase of twelve million Dutch rescriptions, as proposed, for the relief of the French treasury, ought not to be considered a demand for tribute, especially on the part of a republic to whom we had just paid the last instalment of loans made to us under similar embarrassments. France was willing to make amends for her depredations upon our commerce, to the amount of twenty millions. What likelihood was there of our obtaining better terms by war?

These arguments, urged by the friends of peace, and among others by Sullivan, coincided with the views of the president, who had passed the summer at the north. Soon after his return to Philadelphia, Mr. Adams received a

letter from Murray, our minister at the Hague, enclosing a dispatch from Talleyrand to Pichon, the French minister in Holland, promising that should an envoy be sent by us to France, he should be received "as the representative of a great, free, powerful and independent nation." He forthwith nominated Mr. Murray, and afterwards joined with him Ellsworth and Davie, as commissioners to negotiate with the directory. This measure received the approbation of most of his federal friends, and, among them, of Dexter, Lincoln and Knox, but created mortal offence in his cabinet, whom he had omitted to consult. The secretaries, Pickering, Wolcott and McHenry, became his enemies; and, very slightly disguising their resentment, not only thwarted his policy, but leagued with Hamilton to oppose his reelection. The cabinet was then regarded as far more independent of the president than at present. The secretaries considered themselves directly responsible alone to the people, and fully justified, as far as their power and influence extended, in carrying out their own ideas of public policy, without any obligation to resign office when these chanced to differ from the views of the chief. Apprehending a disposition, on their part, to defeat all attempts at negotiation, upon the arrival of Talleyrand's formal assurance of a kind reception for the envoys, Mr. Adams conferred with them as to the instructions for the treaty; but took care to dispatch Ellsworth and Davie in the United States frigate to France, without leaving them any time for opposition.

Upon their arrival in Paris, the envoys found Buonaparte first consul. After long negotiation they accomplished their mission by a treaty, dated the thirtieth of September, 1800. It favored commerce in stipulating that free ships should make free goods, and provided indemnities for future depredations; but satisfaction for those which had provoked hostilities was to be assumed by our own government as an offset to violations of the treaty of alliance of 1778, now abrogated by the war. To our great dis-

grace as a nation, after nearly three-score years, notwithstanding the favorable report of twenty-six committees of Congress, and bills twice passed only to be vetoed, we have never satisfied those claims, which were released for considerations common to the whole country, and the price of our national independence as far as we were indebted for it to Yorktown and to France.

In May, as the cabinet was breaking up, and New York becoming republican, the federalists at Philadelphia decided to support Adams and Pinckney as their candidates for president and vice-president. Hamilton preferred Pinckney for president, and in June visited New England, it is believed, with a view to this result. Whether this were or were not his object, the friends of Mr. Adams so apprehended it; and this belief, exciting jealousy and recrimination, created a hopeless schism in the federal ranks. Hamilton, provoked at some rumored expressions of Mr. Adams to his prejudice, as one of the British faction, wrote to demand an explanation, which not receiving, he prepared a circular to his friends, reflecting upon the policy and measures of the president. This, obtained surreptitiously by Burr, was given to the public. Hamilton, in self-defence, was obliged to publish it himself, with additional comments, and this completed the federal overthrow.*

It may be thought that these historical details have too slight a connection with our subject. But no correct judgment can be formed of Sullivan's writings, or political career, without taking them into view. In subsequent times it was made a reproach to him that at this juncture he deserted the republicans, professed neutrality, and aimed,

*The hostility of his old friends to President Adams, for his conciliatory policy towards France, was extremely bitter. At the Cambridge commencement of 1800, the orator for the second degree, a student at the time in the office of Fisher Ames, improved the occasion to express his sentiments very frankly, against his reelection, and in favor of the views of Mr. Hamilton. The audience were greatly startled at his boldness, and for a moment there was an apprehension of some disturbance, but it passed away.

obliterating the old party lines, at a new organization. He never disguised his sentiments, and his correspondence shows that he had never been in full fellowship with either party. He chose to think for himself, advocating the measures he deemed conducive to the public welfare, and opposing whatever he conceived pernicious, without regard to party policy. The power of a statesman over public affairs is not always to be measured by his official rank. Under republican institutions, where government rests upon opinion, individuals in a private station have often a greater influence than those in place. If Gen. Hamilton and the federalist leaders were defeated in their efforts to control the cabinet and the administration by the vigorous resistance of the president, they were nevertheless able to prevent his reelection.

Without any pretension that subsequent events were materially affected either by his writings or influence, it is simply intended to trace, as faithfully as our meagre materials permit, the public career of Sullivan, and the progressive development of his political sentiments. There seems no reason to doubt that his actuating motives were disinterested and patriotic. His views were entertained by many among the most prudent and judicious. The rancor of party warfare, which for many years had disturbed the social peace, at first attractive from its novelty, had long since lost much of its charm, and the sensible would have gladly seen a truce to the ceaseless political contentions serving no other end but to increase the consequence or gratify the ambition of selfish demagogues. The respect of foreign nations for our government had sensibly diminished, and we were constantly exposed to their depredations and insults. The friends of liberty among ourselves were losing faith in the value and stability of representative institutions, and there was ground for apprehension that these dissensions, if continued, might eventually undermine the loyalty of our citizens generally to the principles of the Revolution.

If not blind to his faults, the preëminent abilities of the president, his stern integrity and patriotic services, had secured the esteem of Sullivan, who, now that their views of public policy coincided, and Mr. Adams had been deserted by his ancient supporters, would have willingly seen him reëlected. He had also much respect for Mr. Jefferson, whose religious opinions he had defended from unfounded aspersions, and whom he regarded as more stanch than the president in his principles of representative government. If, by consolidation of the more moderate of both parties, another could be formed, with the constitution for its platform, supporting Adams and Jefferson, and leaving it to the country to decide which of them should be president, very serious dangers might be averted; the supreme power would be neither entrusted to a man utterly unprincipled like Burr, nor confided to the keeping of Gen. Pinckney, under the control of Gen. Hamilton and his friends, who, however estimable and patriotic, seemed determined to draw closer the alliance with England, and, with their faith already shaken in the success of popular institutions, were disposed to merge state rights, the bulwark of our liberties, in the expanding powers of the general government. A party thus constituted, to which it was proposed to give the name of Constitutionalists, it was fondly imagined would attract the support of the great mass of the people, the wise and patriotic of both parties, and the country thus united become prosperous and happy, and too formidable to be assailed. But, in the existing state of parties, this project was sufficiently utopian.

Such were the views attributed to Sullivan at this time by his enemies, and such were undoubtedly entertained with favor by many eminent republicans. Whether the imputation were or not well founded, it was believed and long remembered to his prejudice. If deserved, it serves to explain some subsequent allusions to his want of consistency, on the part of the republicans. The charge

certainly involves no want of loyalty to the only principle he recognized, consideration for the best good of his country. He owed no allegiance to party, and was under no obligation to adopt its nominations. It soon became manifest that this plan had no chance of success, and Judge Sullivan took an active part in the canvass. From his various articles we select the following, published in September, proving that he was at that time unequivocally disposed to support the republican candidate :

“While the fair fabric of Mr. Jefferson’s fame was exposed only to the secret, undermining attacks of his whispering enemies, his friends felt a momentary concern for the event; when the foul breath of calumny confided its course to the care of a chosen band to circulate, the lovers of fair play experienced a transient anxiety for the cause of truth; but the instant his assailants appeared boldly in the newspapers, and, with uncovered batteries, opened their fires with so much violence as to arrest the peace of innocence, and awaken a spirit of inquiry, the friends of virtue and patriotism were at rest; they knew the triumph of this great philosopher was at hand.

“Had the late revilers of Mr. Jefferson, in the Centinel, taken counsel of the Jacobins, they could not have directed their pens more effectually, to establish his great reputation in the opinion of the public, than by provoking an appeal to his writings and his conduct. This is the tribunal to proclaim his virtues, and to confound his enemies. Although the history of this uncommon man had impressed my mind with a high degree of respect for his wisdom and moderation, yet I profess the most unbounded attachment to the liberty of the press; and if the elements of Mr. Jefferson’s character could not have resisted the shocks of these newspaper discussions, and the base upon which it stood had not been too solid to be moved by these incessant slanders, my confidence in the attainment of superior perfection in this instance would have been shaken.

“The people of America have now before them all the evidence in the power of envy or party spirit to give; they can now judge whether Mr. Jefferson is a man of loose morals, or religious sentiments. They can now determine whether he wishes the downfall of all religion, or whether he has proved himself an able advocate for the rights of conscience, and the cause of genuine, unaffected piety.

“With respect to the three last charges in the Centinel, namely, that he will turn every federal man out of office; destroy the funding system, and with it public credit; and make war upon Great Britain; if these things can be made probable, certainly such a warfare upon the order and prosperity of the country ought to be guarded against. Perhaps it may not be amiss to examine into the prospect of these things being realized under the administration of Mr. Jefferson.

“First, that he will turn every federal man out of office. In judging of what men will do, a recurrence to what time has already sealed with its sanctions dictates that a safer calculation can be made from a course of action derived from a uniform history of the passions, and from the never-failing interest of situation, than from any beforehand protestations or predictions. If the Jacobins are ignorant of the springs of the human heart; if they had no knowledge from an acquaintance of ancient or modern politics; the folly of the federalists, the rocks upon which they have been shipwrecked, would teach them other conduct than turning good men out of office. The political misfortunes of the federalists must certainly have learnt the Jacobins, by this time, that coercive or proscriptive measures will never produce conviction in the mind of their fellow-citizens. If the press is preserved free, and most assuredly the Jacobins, of all men, will not avail themselves of the precedent displayed by the federalists to destroy it, with the channels of information unobstructed, and surrounded by the public vigilance, always awake and ever

attentive, should the Jacobins anticipate a more permanent duration than has marked the reign of their predecessors, they must carefully avoid the prints of their footsteps.

"Clemency is the only effectual weapon for the Jacobins to wield, if they expect to retain their influence. It is true Cæsar fell, but not by his clemency; he disdained the proscription of Sylla, and, I dare say if he could have had his choice, his great soul would have preferred perishing, even by the hand of Brutus, rather than have incurred the meanness of Octavius, and have received the Roman Empire upon the terms of a coat of mail. It is true the clemency of Cæsar did not overcome the inveteracy of Cassius, and if the hands of his assassins had been for that time stayed, the deep wounds made in the hearts of Pompey's and Cato's friends could never have been healed; the blow might have been suspended, but the sword of vengeance would never have been satisfied without a victim.

"In America, though a great many vile passions have been set in motion, the sword of civil war has not yet been drawn. Time, events, intelligence, and the good temper of the Jacobins, may yet dissipate the rancor of party. It is not by retorting the little game played off by the federalists, that the Jacobins can become esteemed. It is by showing themselves superior to these little passions, that they must gain an ascendancy in the minds of their countrymen.

"The bitterness of the federal writers, in the Centinel, against the most respectable characters in the United States, arises more from a dread of receiving the same measure of abuse they have heaped upon the Jacobins, than from any faith in the charges they exhibit. They fear more from the reaction of their own base passions, than from any conviction that Mr. Jefferson will do wrong. The system of proscription followed up by the anglo-federalists for these four years past has been so mean and pitiful, that if I could

persuade myself the Jacobins would imitate their example, I should not desire to see any change.

"Let us, for a moment, contemplate the littleness of carrying this plan so far as to take away employ from a laboring man; as to refuse discounting a man's note at a bank, though the security was undoubted; so far as to turn Colonel Perkins, a veteran officer in the American Revolution, shiftless, off Castle Island, and oblige him, after beating the streets of Boston, from the necessities of his family, to commence as tide-waiter in the customs; in short, so far as to take the bread from the mouth of every honest man, who could neither be corrupted nor intimidated, who had too much principle to subscribe to what he did not believe, and too much honor to act where conscience could not lead the way.

"The simple question at issue is, what will promote Mr. Jefferson's interest when president of the United States? Certainly not turning good men out of office. Mr. Lyman, from the woods of Hampshire, acknowledges the Jacobins have too much discretion to suffer their passions to supersede their interest.

"The second charge is, the destruction of the funding system, and public credit as connected with it. The reason given by Decius for supposing Mr. Jefferson will destroy this system is, because he hates it. This I very much question, in the sense Decius gives it. But suppose he does hate the funding system, will it follow he must destroy it? This rule of action, taken individually or nationally, is very little practised upon with advantage; for, if Decius had been destroyed as often as his hypocrisy and ill-nature had excited the hatred of his acquaintance, it would have required a thousand lives, by this time, to have appeased their wrath.

"The royalists in Great Britain hate the French republic, and have been weak enough to act upon Decius' principle. The event, probably, will reward their temerity. A few

leading men in America also hate the French republic, for more reasons than Mr. Firm and Steady gave in his creed; merely their refusing to receive our commissioners. These men, in their turn, have endeavored to destroy what they hate; but they seem in a fair way to furnish a handsome comment upon this doctrine of the Centinel. Let this argument operate as it may, with regard to the destruction of others, no man, of common sense, can be supposed to carry it so far as to effect his own ruin.

“The Jacobins have been credited for courage and discipline; and, if their predictions of the measures they have protested against were to be reviewed, I believe they would, upon a fair estimation, be entitled to some merit upon the score of a clear understanding. They warned their countrymen against a connection with the British. Every day unfolds some transactions illustrative of the perfidy and wickedness they had foretold. The Jacobins always said the indemnification in Mr. Jay’s treaty would turn out a bubble. The Jacobins always called the British treaty a trap. There is no man, of any information, that will deny that this trap has caught America by the neck, if not by the neck and heels; for we may writhe and turn, but there is no running away.

“The Jacobins would have it that it was not for the political or commercial interest of their fellow-citizens to quarrel with the French republic. The present loss of the fisheries, and the great stagnation of business, clearly demonstrate their foresight in relation to the commercial, and the gigantic attitude of the French in Europe renders their opinion of our political interest at least respectable. The Jacobins contended that the sedition bill was unconstitutional; their fellow-citizens appear, by turning out the advocates of this bill, to possess the same sentiment. The Jacobins thought it ridiculous to raise armies, to create heavy expenses, and thereby bring an enormous debt upon

the citizens. The good sense of their countrymen seems at least to be of the same way of thinking.

“If the Jacobins have understanding enough to foresee what would destroy their country, is it not likely they have too much remaining good sense to entertain the design of committing suicide? For certainly nothing would more inevitably trip up the heels of Mr. Jefferson, than to injure the funding system, or to destroy public credit, which, in our view, is the same. If public credit can be dear to any one man in the United States above all others, the president is that man. To him the public credit must be more precious and interesting than to any other man, or to any body of men, let the amount of their stocks or shares be what it may, for by public credit the president lives, and moves, and has his being.

“Last of all, a war with Great Britain is announced as part of Mr. Jefferson’s operations. Certainly a war, whether offensive or defensive, must require men, implements and provisions. Now, if Decius has any secret by which he can command either of these articles without money or credit, he is more ingenious than his speculations forebode him to be. Mr. Jefferson is to prostrate public credit,—the command of money follows, as a necessary consequence, more especially as our currency is principally paper,—and then he is to make war upon Great Britain. It is needless to occupy the time of the reader further upon this head; for surely no man can execute these two projects, while money and credit continue to be the sinews of war.”

The vote of Massachusetts was cast by the legislature, for the federal candidates; that of South Carolina for Jefferson and Burr, who were elected by a majority of eight electoral votes. The two successful candidates having an equal number of votes, according to the constitution as it then stood, it devolved upon the house of representatives, voting by states, to decide which of them should be president, and which vice-president. Numerous ballotings con-

tinued for several days without adjournment, members who were ill being brought with their beds into the capitol. The federalists generally voted for Burr. When the increasing agitation throughout the country menaced the public peace, if not the stability of the government, some patriotic members, and among them Bayard of Delaware, and Lewis of Vermont, cast blank ballots; and Jefferson, obtaining the requisite number of states, was chosen president.

Judging from the sequel, the federalists of Massachusetts, who, with Hamilton, had favored Pinckney, were much incensed at their defeat. They expressed, without disguise, their resentment; and, to judge from the articles, signed *Americanus* and *Federalis*, in the *Chronicle*, written by Sullivan during the winter, there was much warmth on both sides. He rebukes them for their intolerance, party virulence, and love of power and of place; for their unrepubli- can admiration of English institutions, unreasonable apprehension of French influence, and want of generous confidence in the capability of their own countrymen for well regulated freedom.

During the last days of the session, which closed with the administration of Mr. Adams, the proposed reënactment of the sedition law, then about to expire, came up for discussion. To influence public opinion, against what he deemed an unjust infringement of constitutional rights, Sullivan published his *Freedom of the Press*. What influence it had, if any, can only be conjectured; but the objectionable law was not renewed.

CHAPTER III.

ATTORNEY-GENERAL.

IT has been frequent subject of remark that those most industrious with their pens have made it a rule to be up before the sun. Sullivan forms no exception to its truth. Long before the dawn, in winter, he left his couch, and, kindling his fire, applied himself for hours with energy to his labors. First attempts at new habits have their discouragements. The early riser dozes, becomes hungry or chilled, and hastily concludes the practice well enough for others, but ill suited to himself. By persevering, the discomforts gradually disappear, and a new life, invaluable to one with much to accomplish, is added to existence. But there are laws of nature not to be disregarded. The taper should not be lighted at both ends; if the early hours are to be improved for work, we must forego late vigils over night.

Much away from home, and often in comfortless abodes, our subject could not be always constant to this excellent habit; and sometimes at his task reflection would subside into revery, and slumber, taking by surprise his wandering fancies, imprison them in dreams. On the morning of the new-year, in shaking off the cobwebs which had gathered for a while over his faculties, he indited the following verses, which, if they possess no great poetic merit, give some insight into the character of his mind. He sent them at

breakfast, with the accompanying note, to his widowed daughter; and, in defiance of the discouraging rule of Horace,

“Mediocribus esse poetis
Non homines, non Di, non concessere columnæ,”

unartistic as they are, we venture to insert them :

“THE CANDLE.—A NEW-YEAR’S GIFT.

“The dusk of evening had returned,
My cottage shut, my candle burned,
My wandering eye upon it gazed,
While unconsumed the taper blazed.
My eye discerned no melting waste,
Though minutes rolled, and hours passed,
When I the candle thus addressed :
‘O, could my life like yours endure !
O, could its light like yours be pure !’ —
This wish expressed, I heaved a sigh,
The god of sleep was sitting by,
His lap has often been my bed,
His downy lap received my head.
Awakened Fancy’s strong behest
In airy dreams her phantoms dressed ;
Now mirth, then grief ; here wealth, there power ;
And fear and hope, each had its hour.
Old Somnus shook his weary lap,
The charm dispelled, and broke my nap,
When, lo ! my *candle* quite consumed,
In dying blaze my cot illumed.
The wasted wick and doubtful flame
In glimmering rays this truth proclaim :
Though moments fleet unnoticed by,
Though days and years unheeded fly,
The fatal hour approaches fast,
One grain of sand must be the last.

“JANUARY 1st, 1801.

“Your father knows enough of poetry to know that he is not a poet. But he sends you, as a new-year’s gift, some lines he wrote this morning, occasioned by dreaming of a candle nearly burnt out.”

Various are the pursuits of him the world calls idle ;

and the occupations of Sullivan, whom all his contemporaries remember as incessantly at work, cannot be easily enumerated. Our scanty materials would admit of no attempt to follow closely his laborious footsteps, were such our intention. Biographical fidelity furnishes no excuse for the imposition of weariness, and we, therefore, shall pass rapidly over many incidents of the next three years, not calculated to interest the reader. Events forming part of the history of the state cannot be too familiar to those living within its borders. And, as this memoir has little pretension to notice beyond his immediate theatre of action, we continue our brief sketch of his busy life, for the most part passed in public avocations, with the hope of all reasonable indulgence for any unnecessary dulness.

The long and troubled reign of the federalists was at length brought to a close, and their opponents, who had spared no efforts for their overthrow, succeeded to the control of national affairs. It was natural that, after a warfare waged, on either side, with such extreme asperities, the republicans should have experienced much joy in their triumph. Judge Sullivan, in his *Signs of the Times*, addressed to the federalists, thus bails the commencement of the new administration :

“This is the fourth of March. The day shines with uncommon lustre; the atmosphere is fine, soft, and salubrious. Would it be irrational to suppose that the people of America are, on this day, restored to an assurance of their rights as free, republican citizens? The snare of your party has broken, and we have escaped. We are now at peace with all the world. The dreadful and costly preparations of war are vanished. Commerce sits smiling on our shores, inviting all the world to a rich repast. Agriculture lays aside the loaves she had purchased for war, and spreads her ample table for Commerce and the Arts. The steel, which was yesterday in moulding for the

bloody bayonet, is now bent into the sickle for a luxuriant harvest. The Arts throw by the measures for lines of circumvallations, and are marking the path of Commerce round the world. The funds and banks feel a sacred and inviolable security, because they are erected on the same basis of public faith. Industry returns, claiming her rights as a lawful heir; and is assured that no vile speculations, filling the country with fictitious wealth, shall be ever allowed to expatriate her.

“Liberty of speech, freedom of opinion, riches to industry, prudence and economy, security to persons and property, public faith inviolate, rewards to learning and merit, the equal execution of the laws, peace abroad and happiness at home, attend Jefferson’s administration.”

In appointments to office, Jefferson did not forget his northern supporters. General Dearborn was selected for the war department; Levi Lincoln made attorney-general. Sullivan was offered the lucrative office of attorney for the Massachusetts district, but declined, George Blake being appointed to the place. His brother-in-law, Governor Langdon, who was solicited to accept the secretaryship of the navy, also refused that office. Indeed, nothing but elevated patriotism or an ambition without reflection and insensible to discomfort, could have tempted any one to the city of Washington in its embryo stage of existence. It was still, for the most part, in the primeval forest, only relieved by the capitol and presidential residence, and these, as yet, but partially completed; and, in the prevailing temper of politicians, the attractions of public life were hardly sufficiently alluring to reconcile any one to an abode so cheerless, who could consistently avoid it.

During the summer Judge Sullivan was engaged in preparing for the press his *Land Titles of Massachusetts*, which was published in the following October. It was dedicated to the judges of the supreme bench, and appears to have been received with favor both by the profession

and the public. He was too much occupied to correct the proof-sheets very carefully, and some typographical errors escaped him. As one of the earliest, if not the very earliest elementary work upon legal science in the country, it attracted much attention. But the subject being confined to our own land titles in the state, and there being then among us few persons outside of the profession who were interested in historical researches in this direction, its circulation was limited, as a technical work, very much to our own lawyers.

The organization of the common pleas crowding the dockets of the supreme court, the supreme bench had now been increased, through the exertions of Sullivan, assisted by Theophilus Parsons; and the judges, dividing the commonwealth into two circuits, were thus able to double the number of their terms. As the attorney-general could not attend them both, the office of solicitor-general was created in 1800, and Daniel Davis, who performed its duties for the next thirty years, was selected for the post. The eastern circuit was allotted to his care, and Sullivan relieved from this portion of his labors. How great this relief must have been may be judged from the fact we find recorded, that the judges on the eastern circuit were occasionally, for ten weeks of the spring, every day in court or on the road.

In a judicial system so complicated as that of Massachusetts instances naturally occurred of abuse of power; and occasionally persons in office became obnoxious to public censure for intemperance, or other disqualifications for their duties. Impeachments, now rarely known, were not then unfrequent. In June the attorney-general was engaged in an important case of this nature, assisted by John Lowell, and with Blake and Otis for his opponents. In August took place, at Dedham, the celebrated trial of Jason Fairbanks for murder, which has been noticed, at some length, in another chapter. Other criminal trials of

the year are remembered by members of the bar as unusually interesting. His forensic labors in civil cases continued unremitting. He is spoken of as constantly in court upon all the most important causes; Parsons, Otis and Dexter being his usual antagonists. His practice was not confined to the supreme court, or to Suffolk, but extended throughout the commonwealth, except that he now more rarely visited the eastern counties.

In August his official duties were called into requisition, in the cause of humanity, under the following circumstances: The commander of a vessel from Ireland, laden with emigrants, for reasons we do not find stated, possibly from some malady prevailing among them which would subject him to quarantine, landed his passengers, two hundred and fifty in number, upon an uninhabited island in the outer harbor of Boston. Interposing his authority as attorney-general, Sullivan compelled the captain to reëmbark them, and carry them into port. He is repeatedly mentioned as zealously engaged in behalf of the swelling tide of immigration; and for some other friendly acts of service rendered at this time to the Emigrant Society, an institution of the state for the information and advice of foreigners, his name is honorably associated with that of Dr. Morse, the eminent geographer. This society was entitled to distinguished praise, for the valuable aid they rendered to vast numbers of the poor and uninformed, who were leaving their homes in Europe, to brave the perils and hardships attendant upon establishing themselves in the New World.

His contributions to the press continued constant; and in the periodical works of the day are found essays on political science, which may with safety be claimed as his composition. Following his *Signs for the Times*, addressed to the Essex Junto, was another series in the *Chronicle*, entitled the *True American*, over the signature of *Americanus*. These discuss a variety of topics, some of a local

nature, and others, of more general interest, upon the character of Jefferson, and the importance that the federal colleges for the choice of president should be chosen directly by the people, and not by the legislatures. In August appeared a tribute to the merits of Gallatin as a financier, defending the propriety of his appointment, although a foreigner, as secretary of the treasury. In the columns of the Constitutional Telegraph, then recently established in Boston, on the republican side, are also what would seem the productions of his pen.

But he did not confine his communications to the republican journals. In the early numbers of the Palladium are five essays, believed to be his, upon the good cause of that ancient rule of maritime law, that free ships should not make free goods. One object of war being to compel the adversary to reasonable terms of peace, by exhausting his resources, this, he argued, could be most effectively accomplished by crippling his commerce upon the ocean. If the flag was to prevent a search, belligerents, by hoisting neutral colors, could protect their merchandise from molestation, and thus prolong their powers of resistance. He urged, besides, that the rule was more in accordance with humanity, as on the ocean hostilities were confined to men; while, in the destruction of seaports or invasion of territory, the principal sufferers were the women and children. It was especially beneficial to this country as neutrals; for our merchants, in supplying the belligerents, would not only earn freight as carriers, but also monopolize the profits of the trade.

His last public duty of 1801 was the preparation of a report to a town-meeting of his fellow-citizens, upon the vagrants of the capital. His official experiences as public prosecutor made him well acquainted with the dangerous classes of society, who haunt crowded seaports, finding there more frequent opportunity for crime, and less proba-

bility of detection. His report was printed and circulated; but no copy remains upon the city files.

His public services, abilities as a writer and in his profession, his attachment to the principles of liberty, his defence of the freedom of the press, were frequent themes of praise at this period, both with republican and federalist writers. An able contributor to the *Centinel*, *Verus Honestus*, introduces him, under the name of *Federalis*, into his political disquisitions, as questioning the consistency of the president. Always frank in expressing his opinions, he, no doubt, in the confidence of friendly intercourse, spoke often of Jefferson as he thought, and, all characters having their blemishes, very probably at times with reproach. But, as far as his influence extended, he gave the administration his steady support, and, his associates at the bar and in social life being generally federalists, he was often warmly engaged in its defence.

His letters, in the early months of 1802, to Dr. Eustis, at that time representing the Suffolk district in Congress, present some of the lights and shades of our political history; and, though at some length, the faithful view they exhibit of his opinions and sentiments upon federal affairs will apologize for their introduction. On the thirteenth of January, 1802, he writes: "We live in a crisis of vast importance to our country, and involved in circumstances which render it very difficult to determine which is the most proper way to proceed. The evils we have to encounter are not such as have recently or accidentally fallen on the country. They are of long standing; the seeds were sown in the system; and, though the branches may be pruned away, the roots are yet in the soil, spreading far and deep.

"When the constitution was formed I felt more than a jealousy that there was an intention to make more of it than was openly avowed. I knew what your views then were, and wherever we differed there was no alteration in my opinion

as to the sentiments of your heart being founded in integrity. You know that my suspicion at that time was, that a certain party, by the suability of the states, and by other strained constructions and heterogeneous measures of administration, was intending to consolidate all the powers of the various governments as the foundation of a civil national system similar to that of Great Britain. The hope of accomplishing a project so dear to some, so terrible to others, and so interesting to all, was very faint at that time. But the treaty with Great Britain, to which I had no objection, excepting the danger which it threw us under of being involved in the wars of Europe, gave a revival of hope to an expiring scheme, and raised into insolence a faction which gave no quarter to any one, whatever his character or former conduct or sentiments had been, who differed from them in the most minute circumstance. A reign of terror ensued, such as no nation ever experienced. No one dared to have an opinion of his own; for, though governmental prosecutions could not be had, yet the corroding abuse that each one was liable to was worse than legal tyranny.

“We have now changed the scene. We have a dawning hope that the true and substantial principles of the constitution will be preserved, and administered according to its original design. But how this can be insured is an interesting inquiry. Let the present administration do what it may, the party which is disappointed will be violent in opposition to every measure. False construction, vile and fraudulent informations, and even gross falsehoods, will be the fuel of discord. Should that party again obtain the ascendancy of influence, and be fixed in the confidence of the people, a change of constitution is inevitable. Sometimes I have almost agreed in my heart to their principal maxim, that people are incapable of self-government, and cannot maintain social order, unless, to use Ames’ expression, the steel is in the hand of the civil magistrate, in

form of the bayonet. When I see so many free citizens dead to every idea of social happiness, provided they can enrich themselves, I am almost ready for a moment to join this party in their cry for a government of fraud and fear.

"*Nil desperandum* has hitherto been the motto of my hilt; but our case now is not agreeable. To overthrow this party, which were subverting the constitution, a number of men have been brought into influence, whose principles, or rather their feelings, are in opposition to all regular, well-established governments. There is a confidence in these men which is the occasional result of a frenzy. Should the present administration refuse to gratify their wishes, they immediately join the other party, and become as violent on their side as they have been against them. Having no idea of a solid, rational government, they cannot be safely trusted with power. I believe that you have, by this time, the portraits of several in your mind. To remove men from office, for their having their own opinions, is a species of tyranny of which we have loudly complained. To withhold offices from men who are satisfied with their country's constitution, because they do not love the present administration, when they are *better* qualified than others, would be no less than a militation with the principles of a free government. Should there be vacancies, in the course of nature or things, there can be no doubt but that the president will fill them with men who believe the principles of the present administration to be suitable to the country, if he can find men who are otherwise well qualified.

"In regard to your proceedings in business, I can give you very little aid in the investigation of what is right. What is right in itself simply considered, and what is right on political calculations, may be very different things. The former I have some pretensions of knowledge in, but the latter I know no *data* for. The public opinion, as far as I know it, is in favor of the support of a competent

number of troops, as the seed of an army; too great a deduction will, therefore, be of prejudice to the administration. The New England ideas of commerce are favorable to an armed naval force. The revenue laws cannot be executed without it; and the pride of the people, conversant on the ocean, is delighted with the idea. I am, therefore, of opinion that more ships than are in fact necessary are to be preferred to less. The expense is comparatively nothing, national pride is gratified, and many clamorous objections will be obviated. The idea suggested this way is that the president is unfavorable in his sentiments to navigation. I wish him, therefore, as I believe they wrong him on that point, to make some exhibitions to counteract it, because the public have an interest in maintaining his character and influence. In order to maintain the influence of the present government, I am of opinion that every exertion ought to be made to destroy the lines of party distinctions; and I am gratified when I see members sometimes voting with one side and sometimes with the other. The public wish is to have these practices annihilated. The judiciary is, no doubt, intended to maintain the faction now gone by, until they shall be again reinstated, as an anchor to hold until the tide turns. What will be done with them I do not know.

“There is no part of the president’s speech which is more liable to objections at the north than that which is in favor of aliens. We do not comprehend the reason of it. We are full of people, and want no accession. We know no way to open the door, without the admission of the very dregs of Europe. You know that Dr. Morse, Thomas Russell, John Lowell, and others, had a society legally incorporated, in 1795, to introduce and accommodate strangers and emigrants. You were one. I refused. They met last year, and committed civil suicide. They voted never to meet again. I have explained that part of the message in this way: that some strangers were here,

under a former law, who had lost an inchoate privilege by the last law, which was more severe ; and that justice had urged Mr. Jefferson to propose a relief for that disappointment which the laws had been the cause of. I write no more ; and you do not want to read any more at present. Whenever I think of anything that I suppose worth your labor in reading, I will swell the mail with it."

On the seventeenth of the same month he writes : "You may depend upon it that a reduction of the navy will not be agreeable this way. A commercial people claim a dominion on the seas ; they pride themselves in the means of vindicating their claim. The Tripolitan war has been a lucky incident, and tends to show the necessity of a maritime force. The idea of a standing army has not been agreeable ; but this is not carried so far among sober people as to cause them to wish that there should not be such arsenals, garrisons and parks of artillery, as will render the nation respectable, and preserve the seeds of an army until one shall be wanted, if that shall ever happen.

"The judiciary system has more difficulties attending it. The judges of the supreme court cannot, in my opinion, be removed by an act of the legislature. The circuit judges and district judges, being mere creatures of the statute, die, of course, when the statute is repealed. The only question is whether this can be done, and how it can be best effected. Why should not the number of the supreme judges be increased to nine, districts made, and they be ordered to ride the circuit? If two are a quorum, four circuits will answer. There is one idea not yet suggested that I know of: if all the actions are brought in the state courts, and one party lives in a state where the other does not, the defendant in and by his plea might state that he is of another state, and therefore reserve the privilege of appealing to the court of the national government ; or the plaintiff, in his writ, if he sues one whom he wishes to meet in the federal

court, might give the style of residence of both parties in his writ, in order to reserve an appeal to the circuit court. A greater part of the suitors would be satisfied in the state courts, and go no further; and the judges of the federal courts would have not more on their hands than they could easily perform. The judges of the districts must be continued on revenue and maritime concerns. These appear to be the great matters before you at present; and I wish you better aid than I can give you. There is a general expectation of a change in this strange, intemperate and sudden system of judiciary business.

“My dear Eustis, we are not well off. There are men, who have a seat in the front rank of republicanism, who constantly express sentiments which are not congenial to any form of government that can subsist among men. Their sentiments are represented by the other party, who hate a free government, as the standard of opinion with all the republican party. Here we lose ground exceedingly, and I am sometimes very much discouraged. Men will have government to defend their persons and property. A despotism is preferable to, and therefore always follows, an anarchy. I need not mention the men who are under this mistake. A dreadful propensity to triumph and revenge marks their sentiments. An undue and open disapprobation of religious institutions, sacredly dear to the New England states, is observable in all their speeches and arguments; and, what is very unfavorable to us is, that these are considered the ideas of the president and his friends. Farewell.”

Again, on the seventh of February, he says: “The navy and army bills, I believe, are very satisfactory. There is no doubt, in my mind, of the constitutionality of repealing the judiciary law. The idea of an act of legislation, irrevocable in its nature, is nonsense. The provision for subordinate jurisdictions was intended that Congress might

new model the tribunals, as necessity or convenience might require.

“ If the president, under the idea of providing an asylum for people oppressed in other nations, means no more than what that language simply imports, the several states, by allowing aliens to hold the fee of lands, may make all the provision that is necessary ; but, if he means to introduce them suddenly to the right of electing and being elected, I doubt the propriety of his sentiments. I know very well that his mind has, from a sense of the wrong of slavery practised where he lives, been long exercised on the rights of human nature ; and that he has sorely deprecated the misery and degradation of one part of the human race from the domination of the other. But we must take our country, as well as our world, as we find it. The people in Europe have not had, under their governments, the education, or been fixed in the habits, suited to the form of an elective republic ; and we are, from the nature of things, under no obligation to hazard our own security for their protection. There can be no such thing as a universal mundane community. Why should we contend with the mode of our existence ? There must be, from the nature of man, separate persons, holding different interests and possessions. There must be separate families, communities and nations. The idea of equalizing the happiness of all is as detrimental to human nature, and as absurd in itself, as the common division of property, or a perfect equality of power. We shall very soon, without importation, fill our territory with people. The middle states have lands to sell, and land speculators wish for purchasers ; but is it not much more pleasant to look forward into centuries, affording room, light and air for posterity, than to anticipate the crowds which will render wars and pestilences necessary ?

“ You have seen, or will see before you see this, the result of a motion for an address to the president. I have

heard that some of your great men from this state, residing in Washington, were zealous for this measure. I supposed that you had not been sufficiently informed on the subject, and did not expect that a motion would be made. I believe that the present administration has been gaining ground in the public opinion; and I have been rendered happy under the expectation that, before the anniversary of Mr. Jefferson's inauguration, he would have an approbatory address, on the motion of men in whom the public have been in the habit of placing the first confidence, of men who have been attentive to religion and morals. The fate of the motion will not have any permanent effect, yet may have an influence unfavorable to Mr. Jefferson's administration, in our next annual state election. The violent party, which had felt themselves nearly subdued, will give this circumstance a construction favorable to their own schemes. But the bulk of our people are republicans. As Mr. Jefferson's election was violently opposed by this state; as his administration has had no current on which calculations can be made with a demonstration irresistible by the monarchical faction, it certainly would have been more prudent to have gone on without stirring any question of the kind for the present. I am, however, no politician, and I feel myself of but little consequence in the world."

It is with diffidence that such frequent reference is made to Sullivan's gazette articles; but these subjects were of vital importance to the national existence, and possess value as illustrating public opinion when our institutions were commencing upon their tide of successful experiment. They are essential to our object, since they best serve to exhibit the growth of his own views, and constituted a principal element of the influence he exerted over the minds of his cotemporaries. Fifty years ago there was no daily newspaper in Boston. The journals were published twice a week; the Chronicle, Mondays and Thurs-

days; the Gazette, Tuesdays and Fridays; and the Centinel, Wednesday's and Saturdays. One who studied law with Sullivan, says it was his habit, when he had finished the perusal of the morning paper, to write off rapid comments on what he had read, and despatch them to the printers. His longer articles were more carefully weighed and revised, but he rarely made a second draft. When his office was on Court-street, the Chronicle office was on the other corner of Franklin-avenue, and one of the compositors remembers having often carried him across proofs to be corrected. The most interesting article of his in 1802, of whose authorship there can be no doubt, is one of many columns in the Chronicle, signed Juridicus, on the federal judiciary. One of the last acts of the administration of Mr. Adams, had been the establishment, as already mentioned, of a new system of circuit courts; and, an hour before the close of his term, the president had nominated sixty-eight of his own friends to fill the new offices created. The republicans were naturally indignant, and, having the ascendancy, upon the earliest opportunity repealed the statute and restored the judiciary, with some few amendments, to the ancient system; one which, with slight modification, still exists. The federalists insisted that these "midnight" judges, holding their commissions by the tenure of good behavior, under the constitution, could not be removed by any action of Congress, reorganizing these tribunals, and Parsons filed a plea, in one of his cases, to test its constitutionality. There was much excitement throughout the Union, and, for a time, the fear of an armed collision. Sullivan exposed the fallacy of this view, and proved that the dictates of good sense, the principles of law, and the recognized precedents, warranted the reconstruction of the courts, according to the wisdom of the legislature; and that the judges might be thus legally superseded. The conclusion of the article upon social organization and social distinctions, though not

altogether relevant to the main topic of the discourse, is philosophic and instructive :

“The election of Mr. Jefferson as president may have been wrong, and he may be an unsuitable man for that office. It is not the business of this production to defend him. But he has been elected in the manner the constitution has pointed out, and the benches of justice or the pulpits can by no means be made the theatres of political disquisition on the subject. Instead of aiding and encouraging the violence of the parties, they ought to be calmed down and soothed into a spirit of candor. There is, in fact, imminent danger of the country becoming involved in the horrors of a civil war, unless public opinion can be raised, and firmly opposed to their extravagance.

“A sober, judicious man would be led to inquire what this violent contest, this dangerous controversy, is about? We have a good form of government of our own making. We cannot fail to be happy if we are moral, virtuous, industrious, frugal and peaceable. The administration of the government is so far in the hands of the people that they can change it when it becomes corrupt or oppressive. We can have no reason to believe that the people will cease to love themselves, or neglect to appoint those, generally speaking, who deserve their confidence.

“The idea of changing the government to that of a monarchy and nobility is idle and preposterous. It can never be done but by a civil or a foreign war. It must be effected by a total revolution in the manners, the habits, the education, the opinions, and even in the propensities of the people; it will require the expense of much blood, and the suffering of much calamity, to do all this. And then who will be the nobles? The men who are now for a nobility will be then against it, unless they are themselves made nobles; and they stand less chance for it than others do.

“This thing, called a nobility, is very flattering to some

men, but it has been a curse to the world, from the earliest pages of history. The first we read of it is the aggrandizement of the friends, flatterers and sycophants of the Assyrian and Asiatic monarchies.

“Those who read the histories of Greece and Rome will find no nobilities there; they will find men who had gained a great influence, resulting from the public confidence, for services faithfully and well performed. Though they sometimes abused that confidence, yet this could be no reason against its existence, when deserved, or for creating a standing hereditary order of nobles out of those who had gained it.

“Whoever will read Richardson’s preface to his Arabian and Persian Dictionary, will find that the order of nobles, in the ancient countries, was a military order, created on feats of combat, and established on an obligation to bring forces into the field. Dr. Russell, and the best historians of Europe, all inform us that when the northern nations overran and overthrew the Roman empire, they were composed of weak and miserable monarchies, attended by a number of nobles, leading slaves and vassals; and that, after the conquest, these chiefs had the soil parcelled out to them, on what was called the feudal system, they holding the land on a fief to bring men into the field to attend the monarch in his wars. They were forever at war between themselves, and, whenever they could unite against their monarch, they overthrew and subdued him. The people were their property; and the nobles could kill their vassals at their pleasure, and to gratify their revenge, whenever they felt themselves offended or irritated.

“Those who choose to read, may turn their eyes upon an elegant production, called Stuart’s View of Society in Europe, and they will there find that the order of nobility in the Germanic States originated in a passion for arms; and, to use his own expression, ‘the young men, to gratify them, were educated amidst the scenes of death and bloodshed.’

But Stuart and the other writers inform us that debauchery and a lust for women subdued the spirit of chivalry; and that these were again opposed by that strange enthusiasm which produced the crusades in the fourteenth century. As the ideas of the rights of man were cultivated and understood, the power of the nobles of course declined. In Europe their authority to kill the people, whom they claimed as slaves, was taken from them; and in Russia, Germany, France, Portugal, Spain, Prussia and Italy, the name of a noble is a mere sound. When the people are not slaves to an order of nobles, there can be no authority in such an order to render the people miserable. However miserable the people may be in either of those countries, it is not from the tyranny of the nobles, otherwise than as they are the feudal lords, and oppress the tillers of the land with enormous rents. There is an order of nobles in England, but they are, excepting a few new creations, the remains of ancient families, originating in the feudal government. The oldest son has the large landed estate, and the younger branches of the families are a public charge, maintained in the army or navy, or by pensions. The people who thus maintain them are, many thousands of them, from day to day without a morsel of bread. It may be impracticable to extirpate the order of nobles in that country, and from their habits and education, as well as from the manners of the people there, it may be proper and necessary to 'put them into a hole by themselves;' but it would be a strange, preposterous thing for us to create such an order of beings, for the sake of 'putting them into a hole by themselves.' It is true that we have instances where men gain an influence with the people, but it would be an endless task, in a country like this, to separate and put 'into a hole by themselves' all who should thus gain influence and become important.

"On the fullest consideration we have nothing to quarrel about, and we had better be content with the form of gov-

ernment we have ; that is, we had better be all true federalists, and lay aside this contention."

These sentiments would seem to have been suggested by the republication, at this period, of a correspondence, which took place in 1790, between John and Samuel Adams. In this the former, in the confidence of friendship, probably more in badinage than in sober seriousness, had suggested the probability, if not the actual expediency, of privileged and titled classes in America. Speaking of the more influential class of citizens, he used the expression, frequently quoted to his prejudice, "that the only way to satisfy them, God knew, was to put them in a hole by themselves and set two watches upon them, a superior to them all on one side and the people on the other." In August appeared in the *Chronicle* a series of three articles, addressed to the ex-president on the subject, which were, perhaps without ground, attributed to Judge Sullivan, though the signature was employed somewhat later in his defence from the attacks of Francis Blake. His habit of writing his essays in three numbers, a characteristic not found, it is believed, in the productions of other newspaper writers of the day, might have strengthened this surmise. While severe in expression, as if resenting some provocation on the part of Mr. Adams, the imputations are chiefly confined to a supposed disloyalty of that statesman to his early sentiments as a patriot. Except that in the quotation from the circular letter of Mr. Hamilton and various comments thereupon, the writer charges Mr. Adams with too much regard for self and too little for others, the impression left upon the mind of the reader is generally favorable to the character of the illustrious statesman, who was too candid to disguise his opinions, too courageous to fear misconstruction.

If written by Sullivan, and provoked by no private resentment, but simply from the belief that the opinions of Mr. Adams had been so far perverted by his residence in

England as to tolerate the idea of hereditary distinctions in this country, an impression probably undeserved, they are creditable to the writer's ardor in the cause of liberty; but it is to be regretted that his zeal betrayed him into injustice and ungenerous personality. If, on the other hand, it was but part of a warfare commenced by Mr. Adams, he was doubtless sufficiently chivalric to respect his antagonist the more for the hardness of his blows and the keenness of his steel.

His favorite project, the Middlesex Canal, was now approaching completion; and, we find stated, among other proofs of its utility, that, soon after the water had been admitted this season, for the first time, as far as Woburn, a single yoke of oxen drew in one raft one hundred tons of lumber to that place from the Merrimac. The distance is some sixteen miles, and the burthen would have required at least eighty teams upon the road. In July the families of the proprietors and invited guests, to the number of one hundred and twenty, celebrated the approaching completion of the canal by an expedition upon its waters. Such parties of pleasure, which in these days of rapid locomotion would probably be deemed somewhat slow, were subsequently of frequent recurrence, and are still treasured up among the precious reminiscences of childhood by many who were permitted to participate in them. The long, narrow boats, gayly decorated with flags and streamers, gliding through the picturesque scenery of the Brooks property and other highly cultivated grounds in Medford, conveyed them to Woburn. There the moderate revels were graced with music and the dance; and a row or sail upon the lake, or a stroll through the surrounding woods, filled up the swift-winged hours. The ripening of the strawberry, or the filling of the moon, generally decided the date of the festival; and when, amid the dying splendors of the day, the party gathered to reëmbark, numberless small tables, covered with whitest damask, and laden

with flowers and fruits, especially charming to youthful imaginations, dotted the lawn. In the evening hours, as they moved gently home, through the aromatic fields and shades, a chorus of sweet voices, mingling with the plash of the waters on the banks, left impressions upon the memories of the delighted voyagers, only deepened by the lapse of many years. In the following December, the accomplishment of the undertaking was still further commemorated by a grand celebration and public dinner, at which Col. Loammi Baldwin, the able engineer who had superintended the work, received due tribute, both in verse and prose. In another chapter are some particulars connected with the enterprise, which it was thought worth while to preserve.

In the city and state archives are numerous letters, petitions and other papers, in the handwriting of Sullivan, in behalf of the Boston aqueduct from Jamaica Pond, which was now already sufficiently advanced to afford supplies of pure water to the inhabitants and navigation. He not only continued, as its president, to give it his general superintendence, but devoted to the undertaking much time and labor; and to his unremitting efforts, in surmounting numerous obstacles, and much selfish opposition on the part of individuals, it was largely indebted for its successful accomplishment.

A question, at this time, had arisen between the town of Boston and the commonwealth, as to the ownership of the old state-house, formerly called the town-house, at the head of State-street. Commissioners were finally selected from the distinguished citizens of neighboring states to adjudicate between the claimants. The attorney-general, for the state, and Parsons, for the town, argued the case, which came to a hearing in June, and the dispute was finally adjusted to the satisfaction of all parties.

In August the meeting-house at Dedham was again the scene of an exciting trial for murder. The culprit was

Mason, proprietor of the field in which Fairbanks had murdered Miss Fales. If the papers are to be credited, there was the further remarkable coincidence that the crime was perpetrated just one year from the first, even to the hour. The prisoner was convicted and executed. In the spring of 1803 another criminal trial in Boston attracted much attention. Pierpoint and Story, the owner and captain of the brigantine *Hannah*, conspired to defraud the underwriters of thirty thousand dollars, by scuttling the vessel, and sinking her at sea, three days out from Boston. The plot was ingeniously planned, and a portion of the insurance had been already paid when Southac, an accomplice, betrayed the fraud. The report of the case for the *Chronicle* seems clearly to have been prepared by the attorney-general, as also, in all probability, the comment upon it at the close.

Judge Sullivan estimated too highly the right of private judgment to control the political sentiments of his children; and, while, no doubt, lamenting that their conclusions should be at variance with his own, did not permit this to disturb their friendly intercourse, or lessen his affection. His eldest son, William, who had already gained distinction at the bar, had joined the federalists, and been selected by the authorities as the Boston orator for the fourth of July. The oration was earnest and patriotic, but gave great offence to the republicans. It was strongly tinged with federal doctrine, disclaimed all possibility of danger to our institutions, either from monarchy or aristocracy; but insisted that what the people had most to dread was from themselves. "The informed and the opulent only asked that the country might be saved from the horrors of democracy." He inveighed with severity against the aliens, whose calumnies had disgraced the press, and against Virginia, for her disposition to exercise a dominion fatal to the independence of the other states. The production was condemned by republican writers, and, among others,

by Austin, the author of a series of papers called the *Examiner*, who was especially severe in his comments. At the festival in honor of the day, Dr. Jarvis volunteered a toast, borrowed from the sixth chapter of Jeremiah, to the orator, as the degenerate branch of a strange vine. That there might be no misapprehension of his own political views, Judge Sullivan commenced, in the *Chronicle* of the eighteenth of July, a series of articles on democracy, signed Plain Truth, which were continued for some months. As these able expositions of our forms of government, party distinctions and relations to other powers, attracted much attention from all parties, and are believed to contain views still useful, most of them will be included in a future publication. Their just estimates of political duty; the patriotic sentiments they inculcate; their generous faith, that our people, by their intelligence and virtue, would continue worthy of the blessings they enjoyed, commend them to all who have, at heart, the future honor and well-being of America.

That signature continued for some time a favorite with Sullivan. Over it, in November, he defended the wisdom of the Louisiana purchase, which had been negotiated by Robert R. Livingston, at Paris, for fifteen millions of dollars, one-fourth of which was to be paid by our treasury to American citizens having claims on France for spoliation. Some of the federal party had advocated its seizure, when in the hands of Spain, by force of arms; but now that its peaceable acquisition redounded to the credit of Jefferson, they affected, for political capital, to question its policy. Plain Truth exposed their inconsistency, and estimated justly the immense advantages which must result from the purchase. In the following spring are to be also found various comments, under the same sobriquet, upon the impeachment of Judge Chase, Judge Pickering, and upon other topics; and a controversy with George Thacher in the *Portland papers* is alluded to in his correspondence with General Dearborn.

The year 1803 had commenced with the tidings of the loss of his beloved friend and pastor, Dr. Thacher, who, having gone to the south for his health, had died at Savannah. Sullivan wrote his obituary, and, before the close of the year, was called to mourn over another of his most respected revolutionary associates, the veteran patriot, Samuel Adams, who died at his residence in Winter-street, in Boston, on the second of October.

Among the great diversity of characters that throng our revolutionary annals, each in its appropriate sphere brought into full development, and all coöperating for the great result, none present more colossal proportions than that of Samuel Adams, a name deservedly holding the highest rank in national regard. He has been called the father of the Revolution. It is not to be denied that there were many others more prominent in the day of success, and who, in later years, were distinguished by more substantial marks of public acknowledgment; but no one, by historical records, appears to have been more zealous or efficient in the achievement of American independence. He was the earliest to perceive how utterly irreconcilable was every hope of constitutional liberty for the colonies with their continued dependence on the English Parliament. Like others, he at first indulged with reluctance opinions savoring of treason; and, so long as his good sense permitted, clung to the hope that the mother country, realizing in season her true interest, would adopt a policy which, in respecting colonial rights, might preserve to her empire such essential elements of its power and grandeur. But he was too sagacious to be long deceived; and, once convinced of the necessity of separation, he directed all his energies to its accomplishment. With remarkable singleness of purpose, without any objects of personal ambition, indifferent to every other consideration but the freedom of his country, he pulled down the fabric of political thralldom which held her in darkness and bondage; fear-

less, though he should become himself the victim of that terrible retribution which exasperated governments visit on unsuccessful rebellion. If an enthusiast,—and without enthusiasm he could not have kindled in other breasts the necessary ardor, or effected his mission,—no fanaticism swerved his judgment or dulled his sense of justice. With all his aspirations fixed on political institutions essentially democratic, he was too sensible to lose sight of the great lesson of experience, the character of the people, or the dictates of reason and moderation. Were the taint of social subversion, which later marked the French revolution, looked for in any leader of our own, suspicion might turn to Mr. Adams, but would in vain seek, either in his speeches or writings, for any such visionary speculations or impracticable theories. His manhood was one ceaseless struggle to establish our free institutions on secure foundations; his old age employed in steady effort to preserve them in their pristine purity, reasonably fearing some reactionary movement. He lived long enough to see his favorite system of self-government subjected with success to the test of experiment; and, after reaping a rich reward for all his toil and anxieties, in being permitted to witness its results in the rapidly developing prosperity of his country, he went down to a cloudless sunset, full of glory and honor.

Amidst the heartless crush of the political arena, where honor, truth and justice, are too often forgotten, and where selfishness, under the mask of devotion to public good, seeks, by flattering prejudice, defaming antagonists and truckling to power, its own aggrandizement, we gladly dwell on the steady course of this eminent patriot and statesman, who, with unflinching courage and unbending integrity, scorning alike the suggestions of fear and ambition, has richly earned, by self-consecration to the claims of political duty, the priceless inheritance of a perpetual gratitude.

The following extract from a letter of Judge Sullivan to

General Dearborn, the secretary of war, gives some interesting particulars of his funeral: "I promised soon to forward to you some anecdotes in regard to Samuel Adams' funeral. But, on reflection, I find that I cannot do it without appearing to estimate my own consequence and influence more than, perhaps, either truth or modesty would allow of; and I therefore inclose a funeral sermon preached by Thomas Thacher, of Dedham. I arrived in town the day after the governor died. Governor Strong was far in the country; the lieutenant-governor had no authority; the adjutant-general *wished*, but was afraid to act; the major-general would issue no order. Jarvis and a few others proposed to form a procession of the school-boys, which I had interest enough to prevent. If there could not be a proper military procession, I wanted none. But the bier of Samuel Adams, followed only by his widow, supported by two '75 men, who had never forsaken their old principles, I considered as enough. They were afraid of this, and found power to order out a military corps, and there was the usual parade. Before this was determined upon, Thacher left the town, and, under his good and worthy feelings, composed and delivered finally the excellent sermon inclosed. The federalists have a sarcastic saying, that Adams and his associates did very well to pull down an old government, but not to maintain a new one. When the legislature came together, a resolve, for going into mourning was offered; but it was whittled down by Mason, Tudor and others, from its original form, which was very honorary to Samuel Adams, to the idea above expressed."

A few days after the funeral, appeared in the Centinel and other journals at some length a memoir of the ancient patriot, from the pen of Sullivan, which will be found among the other obituary notices in a future volume. Panegyric was not its object. The claim of Adams to the gratitude and veneration of the then existing and all future generations of his countrymen, was too universally recognized for this.

The sketch simply presented an outline of the prominent events of his life, and derives value from the fact that it proceeded from one who had witnessed or been associated with some of its most interesting incidents.

Other literary labors occupied some portion of this same year, and, among them, his history of the Penobscots. The volume of the Massachusetts Historical Collections, which contained it, was published in 1804, and the account is brought down nearly to the period of publication.

Descendants of the Pilgrims, some few years before, had established an association in Boston, called the Feast of Shells, for commemorating, by an annual dinner, generally given at Concert Hall, the Plymouth landing. From its locality, in the existing state of parties, the majority of its members were federalists. Their toasts were strongly tinged with their peculiar doctrines, and at times excessively bitter against the national administration and its supporters. They were not invariably exact in their historical statements, and the notices of their festivals, being published, became fair subject of reasonable criticism. A writer in the Chronicle, using the *nom de guerre* of Camden, and who, according to the opinion of his opponent, was Sullivan,—a surmise somewhat confirmed by his private correspondence, as also by the style and the acquaintance manifested with our early history,—good-naturedly corrected the errors, and denounced the spirit of hostility which could make use of such an occasion to attack men, whose shoe-latchets they were unworthy to unloose.

When the severe winter of 1804 closed in, various circumstances were combining in Boston to create a state of unusual ferment. Its citizens, generally sufficiently submissive to authority, and loyal to law and order, have been at all periods of their history somewhat noted for their turbulence of opinion upon questions involving important political principles, or where their material prosperity has been at stake. Several projects were now in agita-

tion, engendering jealousies between different sections of the town, and between different classes of its inhabitants. The annexation of Dorchester Point and the war of the bridges, the filling up the Mill Pond, and, more than all, the proposed change of municipal organization, excited a war of words, a tumult of angry feelings.

The peninsula then contained eleven hundred acres, of which at least one fourth, on the neck towards Roxbury, was still unoccupied. Dorchester Point, embracing an area of about six hundred acres, and extending two miles down the south shore of the harbor, by the travelled route, was distant five miles from Boston, but less than half a mile by water. Ten families comprised its whole population. Wealthy capitalists, of much political influence, had purchased one third of the area, and now endeavored to connect it with the town by a bridge from South-street or Wheeler's Point, and to procure its incorporation within the municipal limits of the capital. Proprietors on the Neck, and of wharves above the proposed bridge, opposed this as prejudicial to their estates, and only of benefit to the speculators. Opinion, dictated by self-interest, was about equally divided. Town-meetings for successive days, too crowded for Fanenil Hall, which had not yet been enlarged, occupied one of the places of public worship. The lawyers were generally in favor of the improvement, and the annexationists and their followers, well organized, gained an ascendancy in the assemblage. One of those present says he remembers Sullivan, when the discussion was taking a swerve in a wrong direction, stemming the current of controversy and bringing it back to the point at issue. For a moment the debate flamed into fury, and a general clamor defeated his effort; but his voice, clear and sonorous, rose high above the storm, and, stilling the angry waves of discord, compelled a hearing if not conviction.

By way of compromise, the project of a bridge from Wheeler's Point was abandoned, and that from Dover-street

erected in its stead. Vigorous efforts were made, from time to time, to throw across another bridge from the point, and the communication was once actually established, when a band of rioters, disguised as Indians, cut it away and floated it off. Many years elapsed before this second bridge was finally accomplished. Town-meetings, paper warfare and protracted negotiations were constantly in requisition; and Sullivan exerted himself in debate, with his pen and by his influence, to bring about a peace.

Towards the other extremity of Boston, on what was called the Mill Pond, were divers grist-mills and other machinery worked by the tide. These had become of less importance as the water power of the interior was made available, and transportation more direct and economical. The Middlesex Canal had already proved of service as a valuable channel of supply; and its proprietors, desirous, as mentioned in a previous chapter, of completing their communications with the wharves, by a tow-path over the river, and a canal across the town, coöperated with Mr. Peck, who had purchased the property of the various owners in the land and mill rights, in procuring permission to fill it up. Town-meetings were held, in which Sullivan actively participated, and an agreement was finally adjusted, by which three eighths of the area were apportioned to the town for streets, and a canal constructed, which terminated in the Mill Creek, near the market, and the space is now covered with buildings.

For several successive years these enterprises engrossed public attention, and with them Sullivan was in various ways connected, as counsel or on committees. The South Boston project provoked much bitterness of feelings, and led to riots and criminal trials. Even in their infancy the discords they created left little reason to hope that any plan for municipal reform, a subject now again in agitation, would be generally acceptable. With a view to report such a plan, a committee had been chosen of two from each ward,

selected from among the most influential citizens without regard to party. Of this Sullivan was chairman, as also of a sub-committee for putting it in form, of which Davis, Jarvis, Otis, Blake, Amory and Prince, were the other members.

The committee, after long deliberations, agreed upon their report. The selectmen were to be chosen in town-meeting as before; and, with two delegates from each ward, were to constitute a town council. This council were to choose annually, within ten days from their organization, from their own body or from amongst the citizens at large, an intendant, who was to preside over the council and the school committee. This officer was to have a general superintendence of the police of the town, to receive a salary, and to be removable by a vote of three fourths of the council. All other officers were to be chosen by the council, except the town clerk, overseers of the poor, board of health, firewards, school committee and assessors, who were to be chosen in public meeting as before, and the police officer, who was to be appointed by the intendant. The council were to submit to the general March meeting of the inhabitants the financial condition of the town, and the sum requisite for the expenditures, which, if not objected to, they were to assess.

The committee aimed to combine efficiency in the new system with due regard to ancient prejudices. Their report, signed by Sullivan as chairman, was submitted to the inhabitants; and he was chosen moderator of the meeting. He used every exertion to secure the adoption of the plan, although its most objectionable feature, and that which was said to have led to its rejection, the choice of the chief magistrate by the council, instead of by general election, he had most zealously opposed in committee. The debate was warm and somewhat tumultuous; the attachment of the people to their old forms of self-government prevailed, and the report was rejected by a decided majority. No further effort was made to change the town organization

until 1815, and then again without success. In the revision of the state constitution, in 1820, power was delegated to the General Court to authorize city corporations; and Boston became a city in 1822.

In another public enterprise, during this same spring, he took the prominent lead. With his associates he petitioned the legislature for a charter for the purpose of constructing a turnpike to Montreal, a distance of over three hundred miles. The proposed line, which embraced turnpikes already established in New Hampshire and Vermont, was to shorten the distance fifty miles. He was also engaged, with his friend General Knox, in a plan for uniting the waters of the Connecticut with the Middlesex Canal. What obstacle prevented the accomplishment of these projects does not appear; but they were not carried out.

CHAPTER IV.

POLITICAL SENTIMENTS.

ANIMOSITIES, not much less embittered than those growing out of the conflicting interests mentioned at the close of the preceding chapter, were agitating other parts of Massachusetts, when, in February, 1804, the republican leaders assembled at Boston to select their candidates for the approaching spring elections. Gerry withdrawing from the canvass, Judge Sullivan was nominated for governor, and General Heath for lieutenant-governor.* An address to the electors, said to be prepared by Bidwell, of Berkshire, afterwards attorney-general, was widely distributed among the voters. It was chiefly confined to national topics, and to a defence of the policy of President Jefferson's administration. John Langdon, the brother-in-law of Sullivan, was at this same time in nomination for the chief magistracy of New Hampshire, a post he had already repeatedly occupied, and to which he was again elected for

* William Heath had served through the Revolution with reputation as a good general officer. He was a strict disciplinarian, and had carefully accomplished himself in the science of his profession. From the early stages of the struggle he had been zealous, through the press, in keeping in full glow the military spirit of the people; and, some years after its close, published to the world his memoirs, presenting a truthful narrative of his own experiences. A zealous republican, from his farm at Roxbury he continued through life his contributions to the Chronicle and other journals, over the signatures of Solon and A Military Countryman; and, frequently a member of the legislature, was active and efficient in promoting the public interests.

the three following years. Before going into the details of the most bitterly contested election in the annals of the commonwealth, a slight sketch of the existing state of parties may not be out of place.

If the price of liberty be perpetual vigilance, party antagonism, armed with the ballot, is its best security. Healthy action in the physical world results from some slight excess in one or other of opposing forces. In the body politic, where, under institutions like our own, public sentiment is permitted free expression, in the numbers arrayed on either side of political warfare experience indicates a remarkable tendency towards an equipoise. Among an enlightened community there must consequently ever exist sufficient intelligence and patriotism to prevent any long-continued mischief from the want of judgment or honesty of those in power, the change of a few votes correcting the evil. In the wisdom of former generations this safeguard was thought to be more complete, and less danger to be apprehended from the intrigues of the ambitious or unprincipled, where elections were decided by majorities, than where pluralities controlled.

Party spirit thus constitutes a vital principle of representative government, and, however disagreeable its effects in fever or delirium, without its invigorating action there can be no health, corruption creeps in, and death ensues. When a set of men, professing peculiar views of public policy, obtain direction of affairs, they are watched with untiring jealousy by their unsuccessful antagonists. Should their measures be at variance with their professions, or prove prejudicial to the general welfare, they lose their hold upon public opinion, and in time disturb or destroy the allegiance of many among their own partisans. If, availing themselves of the weakness of human nature, they strive by patronage to perpetuate the power they have abused, on the other hand avidity for place and official emoluments steadily operates as a strong incentive to redoubled efforts

on the part of their opponents; and the only sure mode of retaining the public confidence is to deserve it. External influences have had, at all periods of its existence as a state, much to do with the political character of Massachusetts, but no one can fail to perceive in its annals the beneficent operation of party in its government and legislation.

To minds that take pleasure in historical research no field presents a more interesting subject for investigation than the origin and development of political parties in a free country. But the great embarrassment is to find a starting-point. The stream is incessantly onward, nor can we detect, amidst its full and turbid waters, the particular springs that have swollen its current. We grow into life with such political preferences as we have derived from our fathers confirmed and deepened by early associations. As we proceed and enter upon the concerns of business, or as candidates for office upon the public arena, our sentiments are insensibly modified by interest or ambition. Some, from a wish to be or to appear consistent, cling long to antiquated notions, while others, too indolent to use their own judgment, capriciously veer about with every wind of doctrine, or shape their creed by the conclusions of the more decided. All feel quite assured of their entire freedom from prejudice, and that they are induced to like or dislike, advocate or oppose, from a conscientious regard for the best interests of their country.

The political creeds of party associations, equally with those of the individuals who compose them, have their inheritance from the past. Yet, with change of time and circumstance, the ground on which they rest is perpetually shifting, and the most cherished principles come in time to be superseded by others, their reverse. Another perplexity in political science, defying all rule of reasonable explanation, is of frequent experience; one portion of the community is found to deem that extremely just and judi-

cious, which the rest unite in condemning as morally wrong and impolitic.

But, if it be puzzling to discover any sensible solution for existing political antagonisms, it becomes doubly difficult when we attempt to study those of former days. Would we gain even an imperfect idea of the condition of parties at any particular epoch, we must carry ourselves back to the scene of their contention, learn the sequence of events and the character of the combatants, and amidst the din and hurry of the conflict, without partiality or prejudice, ascertain not only the more ostensible agencies, but, by the aid of the accumulated evidence of subsequent times, the secret springs and motives. Had we faith in our ability to do justice to the subject, we should have been tempted so far to encroach upon the province of history as to sketch more at length the condition of parties in Massachusetts during the period under review. But we have confined ourselves simply to the suggestion of such elements of discord as, from time to time, lent additional vigor to the spirit of party, or affected its combinations.

Many of these have been already adverted to, and are generally familiar. From the organization of the state government, in 1780, down to 1800, Hancock and Adams, both staunch republicans, were at the head of the government fifteen years; Bowdoin and Sumner, supported by their opponents, five. Out of the first twenty-four years of this century, Strong, Gore and Brooks, federalist candidates, occupied the chief magistracy for sixteen terms of office; Sullivan, Gerry and Eustis, republicans, but eight.

It will be remembered that differences of political sentiments, not unmingled with personal jealousies, estranged Samuel Adams and John Hancock in the earlier stages of the revolutionary contest. Partially reconciled, towards its close, during the Temple controversy, their former good fellowship was not completely reëstablished before the adoption of the federal constitution. This alienation, while

it lasted, extended through wide circles of their respective friends and adherents, embracing on either side the most influential statesmen of the commonwealth.

For many years after the peace, animosities against the patriots lurked in the breasts of tories and returned loyalists, and, at times growing virulent and vindictive, disturbed the general harmony. Many among them were sanguine that the commercial restrictions of Great Britain, which sensibly interfered with the prosperity of the country, and were as grievous as any endured in colonial days, would tempt us to return to our old allegiance. Others indulged the belief that we should soon weary of the turmoils and caprices of popular sovereignty, and import a king from Europe. Frederick, the second son of George the Third, then titular Bishop of Osnaburg, and afterwards Duke of York, was openly indicated as the appropriate personage to be selected.

Discordant views and clashing interests upon the subject of the public obligations, the question whether imposts should be levied by state officers or those of the confederacy, resentment against the lawyers and discontent with the judicial tribunals, further contributed to excite the feverish temper of the community, loaded down with debt and oppressed with taxes. Civil war brooded over Massachusetts, and nothing but the wise moderation of her rulers, and the sober second thought of an intelligent people, saved our infant liberties from premature strangulation, the victims of their own convulsions. Party spirit, acquiring fresh strength amidst the passions and ferments of rebellion, found vent and direction in the rivalry of Bowdoin and Hancock for the chief executive office; and contending factions struggled for the mastery with a zeal, which, inflamed by the press, degenerated into fixed and implacable hostility.

The acceptance of the federal constitution, by the state, remained for a while suspended in the balance. Her convention was nearly equally divided between those who

avored its unconditional ratification, and numbers who, under the guidance of able leaders, not disposed to admit its absolute perfection, sought to have its defects corrected. The opulent, and many who from social position were naturally conservative, disquieted by the possible recurrence of the recent disorders, crowded the ranks of its supporters, who, it cannot be denied, in point of character, station and ability, had greatly the advantage of its opponents. Had a more generous spirit of forbearance permitted deliberation, even had no other valuable amendments been suggested than those adopted, all parties would have become more readily reconciled to submitting it to the test of experiment. But the disposition to exclude whoever ventured the open expression of their opinions from offices under the new government, served only to deepen the distinction between federalists, as the successful party termed themselves, and anti-federalists, as in reproach they styled their adversaries. The latter, however, were never disposed to acknowledge the propriety of this designation, and among themselves were generally known as republicans.

During the first term of Washington's administration Hancock held in the state the reins of political power; for the principal part of the second, Governor Adams. Though important changes were made, during this period, in the laws, few questions of internal policy divided public sentiment; but, on questions of national concern, such as the bank, funding system, assumption of state debts and excise on spirits, Washington's proclamation of neutrality, Madison's resolutions for discrimination, and the British treaty, decided differences of opinion arrayed one portion of society against the other, and impassable lines, fixed and not to be mistaken, separated the republican from the federalist. Between them yawned the gulf of the French revolution, which presented to the affrighted vision of the one the bulwarks of civilized society tottering and

blood-stained, law, religion and morality, subverted, gaunt spectres of famine, vice and brutality, satiating their fiendish appetites on human misery, polluting and destroying all that was estimable, while over the scene of desolation were hovering anarchy, civil war and eventual despotism: to the other, exhibiting only pleasing pictures of beauty and promise, the genius of liberty creating new worlds out of chaos, with tyranny and contention chained to her chariot-wheels, and surrounded by happy multitudes of perfect men in a political paradise. Both alike grew giddy with the intoxicating fumes that rose from the seething caldron, and years rolled on before their senses recovered their natural equipoise.

The federal chiefs of Massachusetts, for the most part well educated and able, had been called to places of power and trust not only within the state, but, during the administrations of Washington and Adams, had their full share of official appointments under the general government both at home and abroad. From their revolutionary services in some instances, professional distinction in others, and general respectability of character, they exercised extensive influence throughout the country; and their memories still constitute an honorable part of its history. An important element of their power in Massachusetts was their mutual friendship and confidence; and their party, under united counsels, there continued paramount long after it had become but a feeble minority in most of the other states.

Several of the more distinguished, Jackson, Lowell and Parsons, of Newburyport, Cabot and Dane, of Beverly, Pickering and Goodhue, of Salem, in the county of Essex, as friends of Bowdoin, had received from Hancock the designation of the Essex Junto. Upon the same political platform, and classed by their opponents in the same association, were Dana, Paine and Sumner, Higginson, Otis and Dexter, the Phillipses, Quincy, Ames, Sedgwick and

Strong, and many more who now occupied prominent positions in the federal party. The clergy, shocked at the increasing infidelity in France, capitalists alarmed at the disregard of the rights of property, merchants interested to conciliate England as the mistress of the seas, and loyalists, still cherishing a filial love for the land of their fathers, added to the respectability of its ranks. As a party, they defended the propriety of the English treaty, favored the extension of the navy and a strong central government, and, before the French mission of 1799, supported President Adams to the full extent of his policy. Foreseeing that the French rule of terror and violence would end in despotism, they gave their sympathy, and would willingly have lent their aid, to the nations leagued for its overthrow. Jefferson, the friend of France, they regarded with aversion, as an infidel and anarchist; and affected to anticipate, as the consequence of his rule, the end of constitutional government. They admitted no merit in their adversaries, to whom they had first applied in reproach the designation of anti-federalists, and whom they now stigmatized as Jacobins and Democrats,—terms then expressive, in their vocabulary, of radical and subversive doctrine, but of which the last, greatly modified in its significance, was, after 1800, adopted by the republicans, and has since become the most popular party name in America.

From the retirement of Governor Adams, in 1797, to the election of Judge Sullivan, in 1807, the federalists generally retained the ascendancy; but the republicans were nearly as numerous as their more successful antagonists. In their ceaseless struggles for supremacy, neither local interests nor national concerns constituted the chief elements of political contention. The stirring events convulsing the opposite hemisphere, and sensitively felt in this country through its widely-extended commerce, still continued materially to affect the contest. As the Euro-

pean war proceeded, the great powers, recognizing that its issues must be either victory or annihilation, broke loose from all restraints imposed upon civilized warfare by the law of nations, and contemptuously violated the rights of neutrality. Provoked by constant spoliation and indignities on the part of one or other of the belligerents, which they had not the power to resist or retaliate, the people expressed, through the press, and by diplomatic remonstrance, their feelings of resentment, which were frequently manifested in the feverish and fluctuating results of the elections. As England grew overbearing, the republicans gained in numbers, and eventually outnumbered their opponents.

As long as General Washington continued at the head of the government, the federalists, at peace among themselves, presented an unbroken front. From his superior genius, practical ability and ancient friendly relations, Hamilton enjoyed the implicit confidence of Washington, and, both while in the cabinet and after his retirement, exerted an important control over the national councils. Mr. Adams was both too honest and too fixed in his opinions to be popular, and, when he succeeded to the presidency, failed to command from his supporters that deference due to his character as a man, and to his position as chief magistrate. The leading federalists, not sufficiently considerate of his just right to direct his own cabinet and shape the policy of his own administration, thwarted his views and lessened his influence. Hamilton, selected by Washington as his second in command in the army of 1798, soon began to be regarded as the actual head of the party; and, though too sagacious and high-minded to intrigue for office for himself, it seemed probable that, in the fulness of time, should his party retain its preponderance, he would be called to the succession.

It would have been too much to expect of human nature, even in characters as elevated as those of President Adams

and General Hamilton, that this rivalry should not have engendered suspicions and mutual distrust. Mr. Adams was, probably with good reason, jealous of the ascendancy of Hamilton over the minds of his cabinet. He soon became persuaded of his intention to prevent his reelection, and, moreover, differed from him materially in points of public policy. Rarely disguising his sentiments, this prejudice, freely expressed in the confidence of friendly intercourse, soon came to the knowledge of its object. The dismissal of the secretaries, in the spring of 1800, arrayed also against him in open hostility Wolcott and Pickering, Cabot and Ames, all powerful with their party, and divided the federalists into two sections, the friends of the president, and the adherents of Hamilton. This division was fatal to federal supremacy in the country, and, for the next twenty-five years, threw the national government into the possession of the republicans and Virginia presidents.

The republicans professed greater devotion to political equality and other principles of civil liberty than their opponents, whom they charged unjustly with being monarchists, and with a disposition to assimilate our institutions to the English. The most absolute liberty of individual action consistent with the public peace and respect for the just rights of others, according to the republican platform of that day, was the most precious attribute of freedom. Its votaries would have limited the objects of government control to such as operated equally throughout society; they were zealously opposed to monopolies and all special legislation, and advocated the strictest economy in the public expenditures. Power, the rightful inheritance of the whole people, they deemed should be delegated with jealous caution through the ballot-box, by universal suffrage, and those thus selected for its administration held to strict responsibility. The further this power was removed from the control of the constituent, the greater they thought the likelihood of its being misused. Strenuous advocates

for state rights, and literal constructionists of the federal constitution, they considered the general government as clothed only with the limited functions expressly delegated, and such few others incidental as were indispensable to its efficient action.

Obliteration of state lines and concentration of all political functions in the general government, or, to use another expression, consolidation, was, in their eyes, the most pregnant source of peril to the public liberties. History has since taught us that this sentiment of distrust is peculiar to no party, but influences each and all while in opposition. It became greatly modified in the democratic creed after that party gained the ascendancy; and while their purchase of Louisiana, and the embargo, must be admitted wide departures from their principles, the federalists in opposition became as earnest advocates of state rights and strict construction as their opponents had been under the two first administrations.

The republicans cherished a partiality for France long after she had proved faithless to freedom. They slowly recovered from their original rancor against the English treaty, viewed ever with increasing prejudice the Essex Junto, and reposed entire confidence in the wisdom and patriotism of Jefferson. Among their leaders were many eminent patriots of the Revolution, such as James Warren, Elbridge Gerry, Levi Lincoln, Generals Heath and Dearborn, and with them the Austins, Blakes and Jarvises, Eustis, Cooper and the younger Bowdoin. The venerated shades of John Hancock and Samuel Adams still battled for their cause, to which, in the sequel, several of the most illustrious of their opponents, and among them John Quincy Adams, transferred their allegiance.

The federalists, as the most conservative, numbered among their adherents the wealthy and the educated of the seaports; and the press, naturally controlled by those who supported it, arrayed itself in decided preponderance

on their side. Of the papers of the capital, the *Gazette*, *Centinel* and *Mercury*, were federalist; while the only influential democratic organ was the *Independent Chronicle*. The *Constitutional Telegraph* had a brief existence as a republican print, and was followed by the *Democrat*; while, on the other side, the *Palladium* took the place of the *Mercury*, in 1801, under the direction of Mr. Dutton; and the *Repertory*, in 1802, was removed by Dr. Park to Boston from Newburyport. Out of the capital were the *Worcester Spy*, *Salem, Hampshire, Portland and Kennebec Gazettes*, advocating the cause of the federalists; while the *Portland Argus*, *Pittsfield Sun*, *National Ægis*, *Salem Register*, *Republican Spy*, and some others, energetically contended on the side of the republicans. Many of these journals were conducted with marked ability. The leading statesmen contributed to their columns, and the essays of Ames, Adams and Higginson, of Lincoln, Heath, Jarvis and Austin, of Blake, Morton and Sullivan, furnish materials indispensable to a correct view of political history.

The character of a party is not to be estimated either by the professions of its zealots, or by the accusations of its antagonists. In high party times much is said and written not entitled nor expected to be believed except by the ignorant or credulous. We should not judge the federalists by the vehement invectives of *Castigator* or *Sulpicius*, or by the brilliant essays of Ames, many of which were written to effect an election, or accomplish a temporary purpose. Nor, on the other hand, should the scurrilities of the *Aurora*, which spared not even Washington himself, or the angry recriminations under unmerited reproach, in other journals of that day, be received to the prejudice of the republicans. It cannot be denied that both parties were guilty of excesses to be condemned. But the political world was in a condition of unusual fever, and America, young and impressible, particularly open to its infection. The delirium and disorder of disease is no test of action when

in health; like the maladies of childhood, these party heats were only working the system clear from liability to their recurrence, and leaving it sound and in a state of well-regulated vigor.

Now, that the old political contentions are merged in new issues, and, but for some few hereditary prejudices, we are all republicans and all federalists, we can form a more impartial estimate of the comparative soundness of these conflicting opinions. They have been subjected to the practical test of experiment; and history has happily proved that most of the anxieties, then disturbing the imaginations of sincere patriots with gloomy foreboding for the future well-being of their country, were quite without foundation. Our institutions were framed for a religious and educated people, one consequently moral and intelligent. But, notwithstanding the vast accessions of population from the Old World, the great extension of our territorial limits over other tongues and races, the growth of cities, increase of wealth, and slavery agitation, they apparently work as well to-day as when first established; and we have neither "the nobles in a hole," as feared by the republicans, nor the relapse, through Jacobin fury, into primitive barbarism, as predicted by the federalists.

Party distinctions being an essential element of representative government, it doubtless is the duty of individuals to enlist, where they consistently can, according to their convictions, on one side or the other of the political conflict. Circumstances already enumerated had placed Sullivan, at times, in a position of neutrality. But, if opposed to some of the sentiments and measures of the republicans, he still considered himself as one of that party, and was so regarded, as well by its friends as by its enemies. No one can read his writings and mark the development of his political sentiments, and doubt his views to have been the fruit of deliberate reflection and of profound conviction. In the reasonable interpretation of the

term, he was a democrat. He had faith not only in the right of the people to self-government, but in their ability and disposition to govern themselves wisely. Brought up as they were, with reverence for religious truth and respect for moral obligations, familiar from experience with the evils they had escaped, and sufficiently educated to understand their new institutions, he had little fear that his countrymen would hazard liberties, purchased at the cost of so much toil and treasure, and hallowed by the blood of their best and bravest, from any unreasoning passion or popular caprice. The easy suppression of one formidable insurrection had proved their loyalty to law and order. The anarchy and despotism, which had already crushed out every hope of rational freedom in Europe, had quickened their sensibility to dangers which might menace their own constitutional system. Equality before the law and at the ballot-box, as the rightful inheritance of all, formed, in his view, the essential foundations of civil liberty; but the levelling spirit of French democracy, even when some of his most respected friends were disposed to sympathize with these Quixotic notions in their first flush of triumph, he considered simply absurd and irrational. He thought education and the spread of gospel truth would constantly tend to equalize conditions; but differences depending upon character and cultivation, partly on opportunity and mainly on providence, he conceived beyond the reach of legal enactments, and unavoidable in civilized society.

In his different publications he had urged the importance, if we wished to preserve our liberties, of keeping separate church and state, of strict construction of delegated powers, of prohibiting monopolies, and of protecting the freedom of the press. He was the steady advocate of a sound specie currency. The funding system of Hamilton he conceived established upon inequitable principles. It had sacrificed the creditor states, who had advanced

more than their share of the revolutionary burthens, to the debtor states, who had advanced less; and the original holders of the state and federal paper, who had been compelled by their necessities to part with it for a small portion of its nominal value, he thought were entitled to some indemnification, as well as the fortunate purchasers, who had bought it upon speculation. Alike loyal to his own state and the country at large, he testified himself and inculcated in others a profound respect for authority and for the judicial tribunals; defended both bar and pulpit from unmerited aspersions; and, by his promotion of public charities and useful enterprises, evinced a just appreciation of these important elements of a well organized community. It is not pretended that for this he was entitled to greater praise than many other statesmen of the day. But, forming very decided opinions upon whatever concerned the public interest, he has left them on record, and it would not have been possible to have explained his position and influence at this particular epoch without taking them into view.

Had the temper of the times permitted neutrality, he would have gladly kept aloof from the political arena. Forced to take a side, he became no bigoted partisan. He neither shaped his opinions by those with whom he voted, nor trimmed his creed to secure a wider popularity. In contending for the right he was often exposed, in the public prints, to the attacks of both friend and foe. Assaulted with asperity, he rarely stooped to retaliate. He neither used harsh epithets, nor impeached the motives of those who disagreed with him. When the provocation was particularly pointed, and "foemen worthy of his steel" were eager for the fray, both as Junius and Federalis, he proved that he possessed skill and vigor for these battles of the quill; but they were not to his taste; and, when his antagonists, their arguments exhausted, resorted to vituperation and abuse, he was both too chivalric and conscientious to

employ the same weapons, and retired from the contest. Harboring no malice, his antagonisms never degenerated into personal bitterness. He argued for truth, and not for victory, holding himself ever open to conviction. Notwithstanding his strong party partialities, he associated, on friendly terms, with quite as many federalists as democrats, and was consequently often called upon to defend his opinions. This he did without reserve; and his straightforward sincerity and honesty of purpose, if they at times lessened his influence, ultimately gained him the confidence, not of his own party merely, but of the community. That, even in a worldly point of view, it was his best policy, is manifest from his nomination, by the republicans, for the highest office in the state, and their steadily increasing support, which eventually resulted in his election.

From early manhood, throughout the Revolution, and during the subsequent period of our national existence, he had been constantly in the public service. Possessing great vigor of mind, sound views on all political questions, and superior gifts of oratory, accompanied with a generous disposition and pleasing and conciliating manners, he naturally became favorably known throughout the commonwealth, and regarded as one of its most prominent and popular citizens. Panegyric on the dead is often exaggerated; but the eloquent sketch of Sullivan, in the *Centinel*, written, at the period of his decease, by John Quincy Adams, has the additional claim to confidence that it was prepared for readers who had long known him, and for a community who, from political prejudice, would not have listened with patience to praises undeserved. The high estimate it presents of his character and usefulness is confirmed by the view taken by Mr. Buckminster in the funeral sermon, and by many other writers. Before commencing on that stormy period of his life when, as the leader of the democratic party, he was brought into antagonism with many of the most distinguished statesmen in

our early annals, a passage from the notice alluded to may be quoted to advantage, to show the estimation in which he was held by his fellow-citizens:

“The bare enumeration of the relations in which Mr. Sullivan stood to his age and country almost fill the measure to be allotted to the notice of his life. The public offices which he held were all conferred by the free and unembarrassed suffrages of his countrymen. As testimonials of his merit, they afford the clearest evidence of the satisfaction which he gave to the community in the discharge of his various duties. Supported by none of the artificial props which mediocrity derives from opulence or family connections, every mark of distinction bestowed upon him was at once the proof and reward of his superior endowments. The public stations which he held were not merely places of profit or of honor; they were posts of laborious and indefatigable duty. They were filled with unquestionable ability; and if, in the course of a long political career, he did not always escape the common tribute of reproach which accompanies all illustrious talents, his strongest opponents could never deny that his execution of every public trust was distinguished by that peculiar quality which was most appropriate to its nature. To all he applied the most unwearied and active industry. As a judge, he was universally acknowledged to have displayed, without a whisper of exception, that first of all judicial virtues, impartiality. As the public prosecutor of the state, he tempered the sternness of official severity with the rare tenderness of humanity.

“Mr. Austin, in the life of Elbridge Gerry, says: ‘Marks of James Sullivan’s astonishing industry and prolific genius, qualities very rarely united, are seen in every department of the public service; in professional employments, where he was crowded with clients; in municipal and political discussions, which he never neglected; in the Academy of Arts and Sciences, of which he was an original asso-

ciate; in the Historical Society, over which he presided till the pitiful malice of party deprived him of that honor; in the numerous charitable and humane societies of which he was a member; in the Middlesex Canal, a work of daring enterprise, which he mainly contributed to accomplish; in his professional and historical works, either of which would have given full employment to an ordinary mind.'

"Governor Sullivan was an instance, not uncommon in our history, in which the native vigor of superior intellect triumphs over the defects or the want of early education, and, against opposition and rivalry, marches to professional distinction and political honor. It was not possible for Governor Sullivan to escape the tax invariably levied on eminent men. He lived in turbulent times; and, as the character and influence were powerful and imposing which he brought to the aid of his party, so in proportion was the violence of the hostility with which he was assailed. The eminence of his station exposed him to the arrows of obloquy and detraction; but, though they might have fretted him at the time, they never pierced the integrity of his character."

He was made somewhat a martyr to his opinions, and possibly the more that they did not always coincide with those of his own party. Mr. Austin, in the work already quoted, says of him, that, "in the course of the various and novel subjects of political discussion in which he was engaged, he found it necessary to differ from those with whom he commonly concurred; and this imputed vacillation produced an occasional discord, which may be noticed in some of the letters of his cotemporaries. He relied much, and properly, on the energy of his own mind, and had the manliness to avow any change of sentiments produced by calmer reflection, or better judgment."

"Mr. Sullivan," says Mr. Knapp, "was universally popular, until he opposed some measures which were adopted soon after the national constitution was ratified. The

parties which have since divided the country arose at that time, though they became more distinctly marked afterwards. On these points he differed from some of his old and esteemed associates. The separation grew wider and wider, until what was at first an honest difference of judgment grew into alienation and antipathy. These things could not move him from his course. No man was ever less intimidated by the storms of party rage. It is believed he was so far from exasperating the passions which were then roused, as to sacrifice much of his own feelings to the interest of peace and moderation. He gave the weight of his high standing and talents to the side which he thought was right, and was regarded as its most efficient leader in the state. This exposed him to much virulence and abuse. And what eminent man has not been subject to calumny? He was consistent through his whole public life, and, when the most provoking obloquy was heaped upon him, never returned railing for railing. He had too much good sense, philosophy and piety, to be thus guilty. Whoever reads his productions, will be struck with their calmness, justness and forbearance. His eye was fixed upon the truth, and the everlasting welfare of his country; and he was too elevated to suffer by traducers who wished to ruin him. This moderation, as was natural, only inflamed them the more; but his firm and conciliatory conduct did not fail of gaining the respect of liberal and fair opponents; and they who were halting between the two parties were won by it to his side. Never did any great man more completely and honorably triumph over his enemies. Every year, to the last, added strength and stability to his reputation, and he died invested with the highest office in the gift of his native state, and was universally mourned."

In a letter, dated the 11th of May, 1804, to General Dearborn,* then secretary of war, he states, in the freedom

* General Dearborn, born in 1751, at Hampton, N. H., was distinguished at

and frankness of private correspondence, some of the difficulties he had to encounter in keeping himself within the ranks of the republicans. He says: "I have thought much on an idea, expressed in your letter, that you were glad, for reasons you mention, that *I had taken a decided part with the republicans*. It is true that I have, for a number of years, refused to stand as candidate for governor of Massachusetts. I never did wish to have the office, nor do I now want it. It can never add to my pecuniary interest, honor or happiness; it may deprive me of my ease, and injure my property. But, in the present year, though I had no expectation of being elected, I wished to exhibit to our tyrants a phalanx, which would check their rage for domination; and, knowing that there could not be a strong union of the republicans in any other person, I consented to be nominated, and do not mean ever to withdraw my name, even if there should be no more than five votes for it. The measure has had a great, a wonderful effect, and has accomplished much towards saving our national constitution under the present administration.

"My principles have never been less decided, or less concealed, than they now are. I have, in the day of the cockade tyranny, suffered every abuse that Dana, Thacher, Parsons and the greatest part of the bar, could give without being called on for personal satisfaction. I have been several times driven to that disagreeable resource. When Jefferson's administration, and personal character, were

Bunker Hill, before Quebec, and at Saratoga. He attracted the special attention of Washington at Monmouth, was on the Indian campaign, and at Yorktown; and, before the latter engagement, had reached the rank of colonel. He settled after the war on the Kennebec, and was twice elected to Congress. He was a warm friend of Judge Sullivan, and their correspondence was frequent and intimate. Retiring from the cabinet at the close of the Jefferson administration, he succeeded General Lincoln as collector of Boston, and, in the war of 1812, was selected for the command of the northern army. His character was frank, generous and manly, and his address and manner, though always dignified, both easy and affable.

attacked, I came out openly, under the signature of Plain Truth, and vindicated him. The effects of these productions have been everywhere acknowledged.

“But yet, sir, there is a great difficulty in taking a part with *all the men in Boston* who call themselves republicans. That accursed plot against public and private integrity, called the funding system, has overthrown all the principles of national politics in this town. The numerous banks, and other speculating and oppressive corporations, have exterminated all ideas of citizenship, and concentrated the exertions and faculties of the people in the point of avarice. In all the projects of public utility the republicans have no concern, but in other speculations they are much engaged. You will see that one man, lately chosen a representative in Boston, had nineteen hundred votes, while each one of the others had eleven hundred only. He is at the head of a party which projected another bank, called the Exchange Bank, upon the absurd principle of taking the notes of all banks in payment. Both parties voted for him, because his influence for the moment was above them all. I was seriously informed that, if I would appear in the caucus, and pledge myself to endeavor to procure a law that each bank should be obliged to take the bills of all others in payment, I should have a majority of votes for governor. I need not detail to you the reasons why I treated this overture with contempt.

“You could not raise in Boston five hundred dollars to maintain a free press, or to preserve the republican interest. But when the hope of gain, or the chagrin of disappointment, stimulates an individual, then he becomes violent and noisy for democracy. If corruption is to become the vital principle of a government, I believe that an elective democracy will be infinitely worse for the people than a monarchy can be. The corruption of a few tyrants will be more tolerable than that of many; and the further the seat of corruption is from us the safer we are. I therefore believe we had

better have remained British colonies than to be in a state of corrupted independence. You will, perhaps, laugh at these ideas, as evidence of my want of acquaintance with mankind. I wish I knew less of them; but the great body of the people in our country towns, who, by the way, have vastly more understanding than the speculating tribe in Boston, are in love with an elective democracy, and will maintain it. They now begin to see that there are men who, under the guise of federalism, are endeavoring to introduce a mixed monarchy, or a dissolution of our present national constitution. Indeed, their leaders openly avow it, and say that the people are incapable of maintaining a free government. Whatever evidence the town of Boston may afford them, they are wrong on the whole."

CHAPTER V.

CANVASS FOR GOVERNOR.

SUCH is believed to have been the condition of parties in Massachusetts, and such the political opinions and position of Sullivan, when he was nominated, in 1804, for the chief magistracy. Caleb Strong had been elected for the four preceding years, and the federalists reluctantly relinquished their hold on power. Supported by a highly respectable array of ability and character on their side, they were long able to make effectual resistance against every aggressive effort of the republicans. Of the vote cast in the capital, Strong received one thousand nine hundred and eighty, and Sullivan but six hundred and fifty. The latter was said to have lost three hundred votes by his report upon municipal reform, of which the objectionable feature, the election of the intendant by the town council, had been adopted contrary to his judgment. Several others voted against him for his well-known opposition to the existing system of banking, established then, as now, upon an inadequate specie basis. In the whole commonwealth, the aggregate for the federal candidate was about thirty thousand; for the republican, twenty-four thousand.

The National *Ægis*, of Worcester, had been lukewarm during the canvass, and, when charged with recreancy to the cause of democracy, the editor, Francis Blake, assigned as a reason, his unwillingness to support the republican candidate. Many years before, a misunderstanding had

arisen between his father, Joseph Blake, and Sullivan, then neighbors in Bowdoin Square, and the feeling of hostility had been transmitted to the son. It does not appear to have been shared by his brother, George Blake, a distinguished counsellor, established in Boston, who then held the office of United States attorney for the district, and who, over his signature of Agricola, zealously advocated the republican nomination. In reply to the editor of the *Ægis*, Mutius Scœvola defended Sullivan from this unexpected attack; and the subsequent course of this journal was more loyal to its colors.

The fifth presidential election was now approaching, and the General Court of Massachusetts, in which the federalists had the preponderance, under the impression that the vote would be much the same as in the preceding spring, provided by law for the choice of electors by the people, and by general ticket. Sullivan and Gerry were nominated by their party, as electors at large, and the list, nineteen in number, contained many other influential names; and among them those of James Warren and William Heath, from among the old patriots. Greatly to the surprise of both parties, the republicans succeeded by about four thousand majority. The electoral college, over which Sullivan presided, in December cast their votes for Jefferson and George Clinton, whose aggregate vote in the country was one hundred and sixty-two, to fourteen federal for Charles Cotesworth Pinckney and Rufus King.

Connected with this election, we find, in the *Centinel*, a well written but not very sensible address to James Sullivan, urging him to vote for the federal candidates, on the ground that Jefferson was no Christian. The proposal was altogether inappropriate. Electors chosen for a definite purpose, the constitutionally appointed instruments for expressing the will of their constituents, have no discretion by custom, whatever may have been the original constitutional intention. This address is mentioned merely for

the high respect it manifests for the character of our subject, the more flattering that it came from a political opponent. As the election approached, a question arose, whether printed votes were equivalent to votes in writing, as prescribed by the constitution. The selectmen of Boston consulted the attorney-general, then at Worcester, upon the subject, who gave it as his opinion that they were. In the city archives are his letters, setting forth the reasons for his conclusion, and expressing surprise that they should hesitate in adopting the rule.

This republican triumph in Massachusetts, hitherto the stronghold of their power, spread dismay through the ranks of the federalists, and made them tremble for what remained of their cherished supremacy. As the contest became more doubtful, and the temper of the times more violent, they resorted, as one means to discourage their assailants, to the expedient of aspersing the character of the opposite candidate. Immediately after his nomination, in the spring of 1805, they commenced this ungenerous warfare. In addition to an able electioneering pamphlet, entitled a Reply to Why should I be a Federalist? which was conciliatory and moderate, and free from this reproach, various charges, quite unfounded, and easily disproved, and which, in themselves, with one exception, of no great moment, were made the most of, by strong epithets, and gross exaggeration, appeared in the federal prints. Coming unexpectedly, these attacks at first distressed Judge Sullivan; but, conscious of his innocence, he soon regained his equanimity. Injustice is apt to defeat its own purpose, and a good reputation is often the better for being unjustly maligned.

Preluding with the assertion, which does not seem to be confirmed by a candid examination of his writings, that for thirty years his pen had been against every one, and every one's pen against him, the following passage from his Freedom of the Press was quoted, in justification of their

intended assault: "In case of an election, the publisher of anything against the candidate, which is, in itself, defamatory and scandalous, ought to be responsible, and heavy and aggravated damages ought to be given, unless he can justify himself in the truth of the publication. But, if he publishes the truth only, he ought to be allowed to justify his conduct upon the proof of the facts; and, in such case, the plaintiff in his action will only expose his own folly and weakness, in attempting to gain an office to which his misconduct and vices have rendered him incompetent."

It may, perhaps, serve in some measure to account for the exasperated bitterness of this persecution, that, Sullivan not having been disturbed in his office by Governor Strong and the federalists, his permitting himself to be set up as a rival candidate savored of ingratitude. But the tenure of the offices was quite dissimilar; and, as the performance of his official duties was universally acknowledged to have been faithful and able, his removal upon party considerations would have served only to lose them political capital.

The first ground of reproach taken against him was this: When Sullivan was in the legislature, twenty years before, an over-ardent patriot, fearing we might retrograde from the principles of freedom just asserted and established, proposed to him to organize a constitutional society to watch over public sentiment, and keep it in the right path. Thinking this a direct violation of the very rights its object was professedly to sustain, in bringing to bear an undue influence upon the liberty of private opinion, he declined to coöperate, and was, in consequence, somewhat berated, for his indifference to the great cause, by the disappointed zealot, in the public prints. Under the crown we had had caucuses and gatherings in sail-lofts, over which Samuel Adams had presided; and the Revolution had been accomplished by secret committees of safety, vigilance and correspondence. But now that government was

firmly fixed upon the broad basis of popular representation, secret political societies seemed inappropriate. These objections were less applicable to France, and, during the early stages of the revolution, there was no other practicable mode of concentrating public action, but through the clubs of the Jacobins. With a people as impulsive and excitable as the French, free institutions soon proved as much out of place as a powder-magazine in Vesuvius; and these clubs became only instruments of evil.

When Genet came over as minister, these associations were still at the height of their popularity with his countrymen, and among their sympathizers in America. Constitutional societies were organized at Pittsburg, Philadelphia, and other places, and in September, 1793, one also at Boston. This met some twenty times, at the Green Dragon Tavern, on Hanover-street, the last meeting being on the second of February, 1795. It was the subject of a witty poem, called the Jacobiniad, attributed to Dr. Gardiner, of Trinity Church, and published in the Federal Orrery. The avowed objects of the society were to promote liberty, fraternity and equality, at home and abroad, and its constitution was preceded by a long preamble, full of the most patriotic and unexceptionable sentiments. With other respectable citizens, Sullivan joined the society; but soon becoming dissatisfied with the tone and temper of its discussions, he took occasion to express his conviction of the pernicious tendency of such institutions, and openly, in full meeting, erased his name from its roll of members.

Rumor now began to whisper, what was soon broadly asserted in the press, that, so far from disapproving, he had actually drafted the constitution of the constitutional society; and yet, notwithstanding so open a manifestation, that eight years before, when at Worcester, in company with the judges, he had most solemnly denied this, expressing his disapprobation of all secret organizations. This was entirely a mistake. Upon leaving the Jacobin Club, as

the federalists termed it, he had requested Dr. Thacher, his pastor, to make the fact known to his friends. Judge Oliver Wendell, upon hearing it mentioned, went immediately to his brother-in-law, William Cooper, one of its most zealous members, and urged him to follow Sullivan's example. Cooper, disturbed that his favorite society should be misrepresented, drew from his pocket the articles written by Sullivan upon the federal constitution, saying the society could not be fit subject for reproach, since the preamble to its constitution, setting forth its objects, had been reduced from the writings of Sullivan himself. Judge Wendell misunderstood Cooper to state that Sullivan had drafted the constitution of the society; and having spoken of the subject occasionally, in private intercourse, was now called upon to certify the same to the public. Both Cooper and Mr. Hewes, the secretary of the society, contradicted his statement, and certified that Sullivan had taken no part whatever in the preparation of its constitution, and the federal papers soon dropped the accusation.

The second charge would have been of greater gravity had it had any truth to rest upon. Mr. Blake, already mentioned as at feud with Sullivan for some ancient ground of controversy, the particulars of which are not fully recorded, had stated, at a social gathering of federalists, that he was acquainted with certain circumstances about the republican candidate, which, if generally known, would defeat his election. This was reported to Sullivan, who, although for many years not on terms of intercourse with his defamer, sought him, and requested him to state what he referred to. Blake replied that at Suffield, in 1801, Oliver Phelps had told him he had given Sullivan a note for three thousand dollars, for facilities rendered himself and Mr. Gorham in settling their accounts with the commonwealth. Sullivan declared the story entirely without foundation; and, upon recourse being had by Mr. Blake to Mr. Phelps, then at Washington, for a confirmation of his statement, the

reply, given at a future page of this volume, proved clearly that Mr. Blake had been mistaken, and fully exonerated Sullivan from the charge.

From the statement of Mr. Phelps and other evidence, it appeared that at the time of the sale of the Genesee territory by Massachusetts, in 1788, Sullivan, then judge of probate for Suffolk, Governor Strong, who was in the senate, and Theodore Sedgwick, in the house, and other persons of first respectability in the state, took a small interest in the enterprise, out of regard to the principal purchasers. After Sullivan's appointment as attorney-general, a question arose as to the title of Presque-Isle, a part of the premises; and as it devolved officially upon him to defend the interests of the commonwealth, he went to Mr. Phelps, and relinquished all connection with the speculation. It was not convenient for Phelps to repay, at the moment, the advances made by Sullivan, and these remained as a debt. When this controversy was settled, and there was no likelihood of any other arising which would set his private interests at variance with his official duty, at the request of the other associates, Sullivan took a small share in the lands; and, upon final settlement, the three thousand dollar note was given. Phelps, furthermore, said that he made settlements at the same time with Strong and Sedgwick, and that the terms of agreement demanded by Sullivan were more moderate and reasonable than those insisted upon by either of the others.

Later, at the request of Phelps, fourteen large notes, with securities to the amount of many thousand dollars, were lodged with Sullivan, to meet the remaining payments to the state. From his various engagements, and frequent absence from home, it was not always practicable to make immediate payments into the treasury; and, had an interest account been kept, a considerable sum, according to Mr. Phelps, would have been his due. It was not pretended that Sullivan had made any use of the money, or mingled

it with his own; nor does he appear to have been unreasonably dilatory in paying it over. He considered himself, consequently, under no obligation to allow interest; and this had created, for a time, considerable warmth of feeling, under the influence of which Phelps made the remarks, at Suffield, which Blake had misunderstood. Had facilities, unsanctioned by official duty, been rendered the purchasers, these must have been well known to Sedgwick and Strong; nor could they have escaped the observation of the treasurer, of the land commissioner, or of the committees of both houses having the matter in charge. It was within the power, and was the bounden duty, of every member of the court to examine the files of the treasury, and sift the charge to its foundation. Both branches were still federalist. Respect for the public interest would have made it incumbent on the house to institute an impeachment, at least to appoint a committee of inquiry, had there been reason to credit the accusation. Its best refutation is Sullivan's own contradiction, given in the sequel. For another year it was occasionally alluded to, but was soon abandoned and died away.

Originating with a personal enemy, in the misapprehension of a remark made four years before by one who, himself of unimpeachable integrity, denied that any expressions he had used could bear such a construction, this accusation, unsupported by any evidence, disproved by every negative testimony of which the case was susceptible, compromising, if true, not only the integrity of Phelps, but of Nathaniel Gorham, president of the Continental Congress, and one of the purest patriots of the state, and, moreover, inconsistent as it was with the whole tenor of Sullivan's life, and his particular conduct in this very transaction, may well be considered as never having been made, for any blemish or shadow it leaves upon his reputation.

The other charges require a briefer explanation. The

supreme court at Cambridge decided certain averments to be material, in an indictment on trial before them for perjury, which were previously not held to be of importance. The next case was of the same nature, and the attorney-general, as then usual in matters of mere form, corrected the bill, drawn originally, of course, by himself, by introducing the additional averment to correspond with the new views of the bench. His political antagonists, in their zealous researches for political capital against him, chanced upon this; but, finding it not to his prejudice, soon let it drop.

A quarter of a century before, in 1780, while Sullivan was on the supreme bench, he was compelled to travel on Sunday to hold his court, at the time appointed, somewhere in Maine. In passing, on horseback, through Wells, his horse fell lame, and, meeting an acquaintance, Deacon Clark, on his way to church, he stated his misfortune, and it was agreed that they should make an exchange. Three pounds, in addition to the lame animal, were given to the deacon; but, out of respect for the day, no definite bargain was made, Sullivan promising to do what was right. Clark remaining discontented, through the agency of Colonel Eben Sullivan the affair was soon after compromised, apparently to the satisfaction of both parties, by the further payment of four pounds. Sullivan had a small salary, and many expenses, but usually was not only just but generous. The horse left at Wells was, in his judgment, of as much value as that given in exchange for it. But the circumstance was an event in the life of the deacon, who liked to tell of his being jockeyed by the judge; and was now improved, by the federal papers, as an instance of flagrant wickedness in the candidate they were determined to defeat.

Besides these high charges, he was reproached with his generous hospitalities, his handsome equipage, and elegant liveries, with entertaining Jerome Bonaparte and the Duke of Kent, with building the Middlesex Canal, of receiving a retainer of ten dollars in the case of Dexter

and Farwell, and not arguing the case,—an accusation not correct; and an absurder charge for not reconveying land in the case of Mr. Stacy Read, when it would have been highly unreasonable that he should.

No one who knew Judge Sullivan attached the slightest credit to these imputations. Yet, asserted and repeated without contradiction, they might, in some minds, eager for the success of the federalists, prove of prejudice to his private or official character, and, besides, reflect upon the party who had honored him with their nomination. The vote cast in 1805, showing a gain over the previous year of nine thousand in the state, and six hundred in the capital, afforded substantial proof that the calumnies were of less service to the federalists than to the republicans. Indeed, had not the federal scrutiny, without taking into account sixty-two towns utterly disfranchised, adopted new rules, in order to cast out many votes thrown for Sullivan, on the ground of slight error in the name or other informality, Strong would not have had more than three hundred majority, and, but for the federal merchants in Boston, have lost his election. Such a result might well make Sullivan indifferent to the political malice of his adversaries. During the canvass, in the insurance offices and other places of public resort, he stated the injustice of these accusations to his acquaintance, and, when the election was over, addressed to the public the following explicit denial of their truth:

“REFUTATION OF CALUMNY.—TO THE PUBLIC.—The late charges against me may now be noticed without an imputation of indelicacy. My political principles have ever been, since the adoption of the federal constitution, that the union of the states is essential to the preservation of our freedom and independence; and that the maintenance of the federal constitution, as it now exists, is the only means of perpetuating that union. The administration of Mr. Jefferson has, in my opinion, been uniformly consistent

with the spirit of that constitution ; and his measures, I believe, are calculated to insure our individual felicity, and establish our national honor.

“ I did, indeed, leave the bench, after the independence of my country was placed beyond danger. But, my resignation was not induced by avarice, but necessity. I had expended all my property during the discharge of that office. My family was increasing, and it became my duty to provide, by other means than a small salary, for their sustenance and education.

“ It is very probable that I was travelling in Wells, in the year 1780 ; but I have no recollection of the exchange of horses with one Deacon Clark. I knew a Deacon Clark, of Wells, but I do not remember to have seen or heard of him within twenty years past, till he now comes forward in the newspapers with his demand. I can only say, that if the deacon did receive seven pounds for his horse, he was amply compensated, at the rate for which horses were at that time sold in Wells ; and, if he was not, he might then have applied to a jury of his country for indemnification.

“ The amendment or alteration of an indictment may be done at any time with the consent of parties, and without that consent, while the grand jury remain in session. I have no recollection of the alteration of that against Roger Wheeler. I remember well there was such an indictment, and that the prosecution was abandoned, for deficiency of evidence. An error, of the nature charged, could have no terrors for me ; nor could any advantage result to me by amending it improperly ; nor from a secretion of it, if it was erroneous. It is true the indictment is not on file. On application to the clerk’s office, since this charge was made, I find it is not there.

“ The accusation of receiving a fraudulent note of hand from Messrs. Gorham and Phelps is also unsupported. It never was in my power to render facilities to those gentle-

men, in any of their business with the commonwealth. I never sold to them any of the commonwealth's lands. I never commenced an action, nor had an execution against them, or either of them, in behalf of the government. The note of hand, which Messrs. Gorham and Phelps gave to me, in 1794, was in payment for certain lands, which I re-leased to them, as did those gentlemen who purchased with me. This is the only note they ever made to me. Judge Paine, when he was attorney-general, brought a suit against them on their bond to the treasurer. This had been entered in January, 1790, and was pending in the court of common pleas of the Suffolk county when I was appointed in that year. I was on the circuits from Boston, in April and July following, and had no concern with the suit until the October term, when it was agreed between them and the treasurer to continue the cause, that the General Court might settle it. It was settled by the General Court in the course of the next winter, in which settlement I had no agency or concern. Gorham and Phelps, pursuant to this adjustment, then gave the treasurer another bond; and notes against ten persons were delivered to me by Messrs. Gorham and Phelps, with their power of attorney to collect the money due upon them; and they directed me to pay it into the treasury on their bond. All that has been collected has been paid; and there is now, including charges, a balance due me from Phelps in that concern. Gorham died some years ago, and my account of this transaction was filed in the treasury, and also delivered to Phelps in 1799, since which, as the present treasurer knows, and his predecessor knew, I have constantly urged Mr. Phelps to come to the treasury and effect a settlement.

"Before I was attorney-general, I had been, with Judge Sedgwick and others, a purchaser, under Gorham and Phelps, of the land for which their bond was given. This was no secret. All knew it who knew anything of the concern. The land was absolutely conveyed to Messrs.

Gorham and Phelps, and my possession of a very small part of it did not, in the smallest degree, connect me with them in the bond, which was the only claim which the government had against them.

"The charge that I received a fee of ten dollars of one Farwell, in a cause of Dr. Dexter against him, and after argued for Dexter, is also groundless. There was one S. Tarbell, in Groton, who went away in the time of the war, and a note of Mr. Farwell to him was found, with Tarbell's name endorsed upon it, in the possession of one Jonas Cutler. It was sued, I think, before the peace; and I defended Farwell against that demand. When the treaty of peace was made, and it was provided that the absentees should recover their debts, Farwell gave Tarbell another note for this, dated the fourteenth of April, 1787. Tarbell or Dr. Dexter brought this last note to me to be put in snit, and it was sued in Dr. Dexter's name, as an endorser. The declaration was in my hand-writing, and I appeared for Dexter in this case, and in the review of it afterwards. Tarbell paid my fees, and I did not receive any money of Farwell in this cause. I knew Mr. Farwell, and knew him to be not only friendly, but attached to me; nor did I ever hear a word of this affair till it appeared in the papers.

"The accusation made for Stacy Reed is without foundation. He had a deed in his possession, made in the year 1727, to his grandfather, James Reed, of one thousand acres of land, *to be laid out* in a tract of eighty miles square, in the county of York. He brought me that deed in 1788, and gave me a deed of two hundred acres of the one thousand to attend to it, and recover for him the land. I gave him a promise, in writing, to re-convey one hundred acres, if the land should be recovered without a lawsuit; and it was agreed that, if I should find it necessary to sue therefor, the land that this deed conveyed to me should be all my compensation. The deed to James Reed was then more than sixty years old; and if his grandfather, the

grantee, had any right to land there by the deed, unless it had been located in his lifetime, the deed to him was of course void. My only inquiry, therefore, was, if the land conveyed to James Reed was or was not located. I found that it never had been; and, on my arrival in Boston, returned the deed of James Reed to this Joseph Stacy Reed, and either burned his deed to me of two hundred acres, in his presence, or returned it to him; for that deed is not now in my possession, nor was it ever recorded. Here ended this business. Some years after, Mr. S. Dexter commenced an action for Reed, against Deacon Phillips, executor of Edward Bromfield, one of the grantors in the deed. The action was brought by Reed, as administrator of his grandfather's estate. The pretended ground of action was, that Salter, Adams and Bromfield, the grantors in the deed to James Reed, the grandfather, had covenanted to lay out and set off the thousand acres, but had never done it. Reed lost the case by the decision of the supreme court. William Phillips applied to me to defend the cause for his father, which is the only instance of my being employed by Deacon Phillips or his son. Reed never applied to me in this case, nor did he ever claim any assistance from me in it.

"It may be true that I denied having drafted the constitution of a certain political society; for it is true that I never wrote it, nor any part of it, nor was it ever, or any part of it, in my hand-writing.

"These are the crimes of twenty-five years of a busy life! My political enemies may now print whatever their foolish malignity prompts; but I shall not again condescend to answer them.

JAMES SULLIVAN.

"Tuesday, 2d April, 1805."

While thus vigorously pushing the war into the country of the enemy, the federal party found, to their grief, that their majorities, in both branches of the court, were sen-

sibly undergoing a decline. For the purpose of retaining their ascendancy, it was determined that Boston, which had previously sent seven members to the General Court, should now choose twenty-six, nearly the full number allowed her by the constitution. Had her example been generally followed, the whole number would have been over seven hundred.

During the following summer, on the western circuit, Sullivan made two of his most elaborate arguments. One in the case of Wheeler, an extract from which is presented elsewhere, and the other in the suit of Smith *vs.* Dalton, which produced the following panegyric in a Berkshire paper. This, if rather extravagant, affords some criterion of the impression that it made upon the public at the time: "The cause was argued by the attorney-general with a strength of reasoning and learned eloquence, which were unanswerable and convincing, and manifested superiority of genius, erudition and talents, which leave him without a rival. He is truly a prodigy of knowledge and of every mental endowment that can adorn human nature." This argument has been mentioned in another chapter; and, it will be remembered, was an able vindication of the right of religious freedom; and, like that for the Universalists, twenty years before, was occupied with topics in which he was deeply interested, and with which, for a layman, he was unusually familiar.

Nominations for the April elections were made in February, and the excitements of the canvass were limited in duration to a period of six weeks. In reference to the rancor and virulence then marking political warfare, it was said the season thawed out the snakes. The past year had been busily improved by the federalists in hunting up fresh grounds of reproach against the opposing candidate; and, as the election drew near, their prints reöpened their batteries, and continued to fulminate ungenerous calumnies neither to be silenced by denial or refutation. Had there

been any truth in the accusations, trifling as they were, the federalists, who had been for many years in power, would have removed Sullivan from his office. It is creditable to him that, in the spirit of animosity which inflamed his opponents, nothing more serious could be advanced to his prejudice with any show of probability. The uncompromising fearlessness with which he had repelled attacks, vindicated right, or denounced error, however high in place, were not, probably, without their influence in reconciling the more magnanimous to a persecution which most of them had abundant reason to know was entirely unwarranted. Perhaps they were not yet reconciled to the republican principle of rotation in office, and, considering Governor Strong entitled, by prescription, resisted the efforts of the republicans to oust him as an attempt at usurpation. Possibly patriotism silenced the suggestions of justice, and, in the belief that the country and its institutions were in jeopardy from the administration of Jefferson, they were willing to countenance any course that would keep the helm of their own state under more orthodox guidance.

The fresh charges brought forward to defeat the republican candidate, in 1806, were sufficiently antiquated. The first was for taking a retainer of thirty dollars in the case of *Pitts vs. Copps*, at Augusta, in 1799, and not being disposed to argue the cause. The fee had been sufficiently earned by the time bestowed and the advice given. But a bill was pending creating the office of solicitor-general, to attend the eastern circuit, and Sullivan did not expect to be, and of course would not engage to be, there when the case should come on to be argued.

Patrick Conner, an innholder of Boston, about the year 1796, became liable, as bail, for an amount of nearly three thousand dollars to Minturn and Chaplin, of New York, for whom Sullivan was counsel. When the execution on the bail-bond, having only a few days to run, was about to be

served, Conner, who had put his property out of his hands, procured from Minturn, upon the plea of illness in his family, a note to Sullivan authorizing an indulgence of ninety days, if consistent with the security of the debt ; but leaving it entirely to his discretion. Sullivan assented to the delay, upon a responsible note being given for the debt and payment of the costs, amounting to one hundred dollars ; and so instructed the officer, who, when the time fixed had passed without compliance with the condition, committed Conner to jail. A few days later the daughter of Conner died ; but, as a debtor cannot be arrested twice on the same execution, permission to leave the prison to attend the funeral would have involved the loss of the debt. This was now brought up as proof of Sullivan's inhumanity. He, no doubt, regretted deeply being instrumental in adding to the affliction of a parent under such a dispensation ; but there is no reason to believe he realized the exigency of the case when he gave his orders, or could have doubted Conner's full ability to give security or pay the costs. Within thirty days a note, signed by Moore, to whom Conner had conveyed his property, was given for the whole claim, and Conner released from imprisonment.

A Danish gentleman, named Elias Norberg, having deceased without relatives in this country, and leaving property valued at eight thousand dollars, at the request of his friends and the Danish consul, the attorney-general procured a resolve from the legislature, attended to the probate arrangements and to some litigation during the seven terms in the supreme court, the whole affair engaging his attention for five years, in order to place the estate in the treasury for safe-keeping and benefit of the heirs. For his trouble, under the sanction of the consul, he charged two hundred dollars, the same fee Mr. Dexter received in the same case on the other side for less labor. Such extra-official duties were never intended to be recompensed by his salary, which, indeed, was not much more than suffi-

cient to pay his travelling expenses. Yet this was made a reproach to him as an unjustifiable extortion.

Two other charges,—for that of Boson, the barber, has not sufficient substance for comment,—close the catalogue of his alleged delinquencies. One was for a defence, which was not equitable, in the case of Whittemore, twenty years before. The statement was contradicted by two sons of the party interested, both zealous federalists, in their published certificates. The other was for receiving a fee of sixty dollars for drafting five deeds for two millions of acres of land to Ogden and Morris, in the year 1790. The conveyance was under certain conditions and provisos of extinguishing the Indian title. Any one who chooses to read the instruments will, no doubt, admit the fee moderate for the time and labor bestowed.

To counteract the injury these calumnies might work to the democratic cause, Sullivan published a special refutation of each of them in the *Chronicle*; and, on the sixth of March, 1806, also the following earnest appeal to the justice of his countrymen:

“I have held, by your suffrages; offices of great importance for more than thirty years. You have seen my conduct as judge of the supreme judicial court, judge of probate, counsellor and representative. The office of attorney-general has been conducted by me for the last sixteen years. The voices of sundry respectable and learned societies have placed me at their heads. The General Court, the governor and council, the supreme judicial court, have had my public conduct always under their eye. No distrust has been seen; but the calls to public duty have borne testimony of the opinion of all these bodies in my favor. No want of confidence has ever been expressed towards me. As to my private and domestic life, judge of it by the men I have associated with. A man is known by his company. I never had a question before a court, jury or arbitrators. Where is

the man I have wronged? Let him apply openly, and he shall have justice done him. My fellow-citizens happen to have had confidence in me; they chose me elector of president; they approved my conduct so far as thirty-six thousand votes for governor last year could be an approbation. I am again, without my own solicitation, made a candidate for that office. The federal papers are filled with scurrility and abuse; but no one has come forward with his name to a charge. Am I to chase these shadows, vested in falsehood and malice, and to explain, in a day, pretended charges of wrong raked out of the dust of twenty or thirty years? Let any man come forward with a charge; I will meet him in the face of the world. I have wronged no man, I have defrauded no man, and should degrade myself, in your opinion, if I should condescend to notice these anonymous slanders."

It is not easy for some minds, however generally candid and generous, to withstand prejudice, when objects they consider both important and laudable are to be promoted by its encouragement. Whether credible or not, these slanders offered an irresistible temptation to strike a blow, which was now loudly called for by the federal prints, at the influence of the republican candidate. On the twenty-ninth of April, at a meeting at which were present only nine members, and of these one was subsequently expelled, Christopher Gore was elected president of the Historical Society, a post which had been occupied by Sullivan since 1792, when the association originated. He does not appear to have been again present at their meetings, though, after his decease, expressions of regret are found upon their records, and John Quincy Adams was appointed to prepare his obituary for their collections; an office performed by James Winthrop, one who had ever been warmly attached to him.

The vexatious depredations of Great Britain upon our defenceless merchantmen, with the impressment of our sea-

men, culminating in the murder of John Pierce, of the sloop *Richard*, by one of three shots fired at that vessel by the frigate *Leander*, off the Hook at New York, on the twenty-seventh of April, had operated to the prejudice of federalism. Memorials from all the great seaports urged the president to vindicate our national rights. A series of articles, signed *Americanus*, written by Sullivan, entitled *Proof Positive of British Influence*, advocated the same sentiments, and operated favorably upon the election.

When the votes for governor were cast, and returned to the office of the secretary, it was long doubtful who had been chosen. The republicans had a majority of one in the senate, and chose Perez Morton speaker of the house by two hundred and fifty-one out of four hundred and sixty. The joint committee, to whom the election returns were submitted, consisted of Enoch Titcomb, Aaron Hill, Samuel Dana, of the senate, and Joseph Story, John Codman, John Bacon and Col. Danforth, of the house. Of these, Titcomb, the chairman, and Codman, were federalist. On the fifth of June they reported that the whole vote cast was seventy-five thousand two hundred and seventeen, from which one thousand eight hundred and seven had been deducted for various informalities. Twelve returns, on which Sullivan had the majority, were entirely thrown out. Twelve votes had been returned for Caleb Stoon, thirty for Caleb Strong, and three hundred and fifty-seven from Lynn for James Sulvan. After these deductions, thirty-six thousand seven hundred and ninety-six were necessary to elect. Caleb Strong had thirty-six thousand six hundred and ninety-two, James Sullivan, thirty-six thousand and thirty-one, James Sulvan, three hundred and fifty-seven, William Heath, eighty-five; and, consequently, there was no choice by the people. Gen. Heath had a majority for lieutenant-governor, and was chosen.

If accepted, the effect of the report would have given the choice to the legislature, then democratic in both

branches, the senate having to choose one of two selected by the house from the four having the highest number. The members of the committee stated that all had been done fairly; that, from an apprehension that whilst considering the sufficiency of the returns party partiality might influence their decision, the numbers for the different candidates were kept sedulously out of view. It was further stated in debate upon accepting the report, that the rules governing the committee were the same which, for the first time, had been introduced by the federalists the two preceding years, in order to swell the comparative vote of their candidate. In 1804, votes for James Suller-vorn, Sullervin, Sulephan or Solivain, had been, with this object, carried to separate columns. In 1805, sixty-two towns had been deprived of their votes for slight deviations from the rules prescribed. The federalists, it was argued, ought not to complain that principles of their own adoption now operated to their disadvantage. The discussion, in both branches, occupied nearly a week, and eloquent speeches were made by Otis, Bigelow and Gore, for the federal view; by Dana, Bacon and Story, for the republican. In the senate a protest was introduced by one of the minority at the moment that body were preparing to attend the funeral obsequies of Treasurer Avery. It did not receive much attention, and, withdrawn, was published in the Centinel. Both sides were much excited, and the republicans had full power to carry out their triumph, had they not been restrained by a sense of its injustice.

The General Court were supreme arbiters of elections, and, had they chosen Sullivan, he could not have consistently refused to have served. But elevation to a post for which another had received a fuller expression of the popular will would have afforded him no gratification, and been at variance with all his political principles. As the party most directly interested, he was undoubtedly consulted, in respect to their course, by the republican leaders. It was

at no moment of particular discouragement that they abandoned the contest; but, on the contrary, when the report seemed in course of most complete vindication the papers speak of the sudden change of purpose; and there is greater probability of this having originated with the candidate than with his supporters. Selecting from the schedule of slightly defective, but accepted returns, that of Lincolnville, without date for the year, and that of Cambridge, not sealed in town-meeting, making together six hundred and twenty-six votes, of which two hundred and fifty-nine were for the federal candidate, these defects were suggested to the house, and the returns rejected. The report was taken into a new draft, and passed almost unanimously by both branches, declaring the number necessary for a choice thirty-six thousand three hundred and ninety-three; and that Governor Strong, having thirty-six thousand four hundred and thirty-three, had been reëlected. Heath, the lieutenant-governor elect, declined to be qualified.

While the committee were counting the votes, Mr. Parsons, of Chesterfield, moved an investigation of the accounts of the attorney-general, and was appointed chairman of a committee, of which King, Danforth, Upham, Bacon, Livermore and Story, were the other members, for this purpose. At their request, Sullivan attended for examination, and made the following statement. Prior to his appointment to the office, in February, 1790, no salary had been attached to it, the emoluments consisting of travel, attendance and other fees, as in civil actions. When notified of his appointment, he informed Governor Hancock that the office would be a disagreeable one without an established salary; for, though the emoluments would amount to more than any salary he expected or wished, he was not inclined to act under the temptation of having his income dependent upon the multiplication of indictments or other criminal prosecutions. In consequence of a communication of Governor

Hancock, upon this subject, to the legislature, a committee was appointed, who, after conference with Sullivan, reported a bill, passed on the twentieth of February, 1790, allowing the attorney-general three hundred pounds per annum, the same salary which the judges then had. Subsequent grants had been made to him, of five hundred dollars in 1797, and of three hundred and fifty dollars in 1799, on account of the increase of expenses, he being placed on the same footing as the judges. But the committees reporting these grants appeared to have made allowance for a fee of two dollars and fifty cents, charged by him on writs of scire facias; a process consequent, certainly, on criminal prosecution, but not a part of it. Sullivan had always received these fees as the appropriate recompense for a labor incidental to his office, but which did not constitute any portion of his functions as the public prosecutor. When he first entered upon his official duties there prevailed an entire want of system in the accounts of the county treasurers, and in 1792 he procured an act of the legislature to correct this evil. After the election question had been disposed of, the committee reported a balance in his favor of twenty-four dollars and eleven cents, and a further payment to be made to him of two hundred and forty dollars, to be accounted for in the prosecution of civil suits. This resolve passed to the senate, and was committed. Brigham, a federalist, the chairman, was sufficiently zealous in the cause to travel to Worcester, expressly to inquire of the county treasurer what sums Sullivan had received from 1790 to 1795. He had discovered fifty-eight dollars paid during those five years, of the principal part of which it was, fortunately, in the power of Sullivan to explain the lawful appropriation. After some discussion, the report passed the senate, and was approved by the governor. The subject subsided for a time, but was again agitated the succeeding year, as will be seen in the sequel.

From the adoption of the state constitution, the inhabit-

ants of incorporated plantations had enjoyed the privilege of voting in their senatorial districts for senators and governor. Their sentiments were generally republican, and their votes were cast for Sullivan. A question was now raised, whether the wording of the constitution gave them this right to vote. To prevent doubt, the legislature passed an act recognizing the right and regulating its exercise, which, sent to Governor Strong, was retained by him till the following January, when he returned it with the opinion of the supreme bench that this class of citizens were not entitled to participate in the election of their chief magistrate. Upon the ground that, from his having kept the bill for five days without returning it, it became a law, the house passed a vote to that effect. Without intending to impeach the motives of Governor Strong, or to impugn the opinion of the judges, it is worthy of note that a statute, passed in 1803, for regulating the exercise of what was then unquestioned as the right of this class of citizens, had passed without opposition or the slightest objection, and been approved by Governor Strong; there then being no particular inducement for an opinion one way or the other.

This eventful session, uninterrupted even by the great total eclipse, which, during the forenoon of Monday, the sixteenth of June, shrouded a large part of Massachusetts in darkness, at last came to its close. Preparations were made to celebrate the approaching national birth-day with unusual festivities. Faneuil Hall had been enlarged to double its former dimensions, and now, decorated with Stuart's Washington, the gift of Mr. Samuel Parkman, was occupied by the federalists for a grand banquet. Among the honored guests were John Adams, Elbridge Gerry and Robert Treat Paine, signers of the Declaration of Independence. The usual eloquence was poured forth from the various pulpits throughout the commonwealth. In Boston a long procession of republicans, with Benjamin Austin as

their president, marched under military escort from the state-house to Copp's Hill. Here they feasted merrily under a broad tent, "Hilarity, Philanthropy and Fraternity" being their order of the day. The younger republicans emulated their seniors, and, after an oration from Gleason, accompanied the march to the Green Dragon Tavern, where they had an entertainment by themselves, and the junior federalists dined at Concert Hall. The weather was unusually propitious, and the republican motto in general currency.

It happened that the Tunisian ambassador was, at that time, in town, and accepted an invitation to attend the celebration at Copp's Hill. His appearance in the procession, in his turban and long gray beard, with his showy oriental costume, and a number of his attendants in rich Turkish and Moorish dresses, attracted, to a high degree, the curiosity of the public. From this eager curiosity to see the foreigners, or some other cause, many persons, a large number, it is believed, entered the dining tent, through the frail enclosure, without having provided themselves with tickets, in consequence of which the money received fell short of the sum required to pay Mr. Eager, the landlord of the Jefferson Tavern,* who had

* As a matter of curiosity, we have been furnished, by a friend, with some interesting particulars, showing the origin of this Jefferson Tavern, kept by Mr. Eager.

There was an old tavern in Back-street, now included in Salem-street, which had long been the stage tavern, from which lines of stage-coaches took their departure for New Hampshire and Vermont. About the time when Mr. Eager took a lease of this tavern, say in 1803 or 1804, the effects of an old public house, on Cambridge Common, about that time discontinued, were sold at auction. That house, which a few persons connected with Cambridge may perhaps still recollect, had stood a few years on the northerly side of Cambridge Common, near the road to West Cambridge, and, having been established in the time of President Adams, the sign was, naturally enough, a very good likeness of that distinguished person. When these effects were sold, Mr. Eager, being about establishing his new tavern in Boston, purchased that sign, still in good preservation, and carried it to his place in Back-street, to be erected in the old-fashioned mode, that of a swinging sign, on a sign-post.

provided the entertainment. The committee, having acted in behalf of others, denied their personal liability beyond the money they had received, and to this amount they offered to pay. But this not satisfying Mr. Eager, he applied to Mr. Selfridge, a lawyer of much ability, and in good practice, to collect it. The question presented to Mr. Selfridge was, whether, under the circumstances, the

It happened that there lived next door to the new tavern a well-known violent partisan and loud-talking politician, then recently removed from Marblehead, who had before that time been a representative from that town. He had been a seafaring man and master of a vessel, and was afterwards appointed to the command of one of Mr. Jefferson's gunboats. He was in the habit of attempting to give force and effect to his feelings by the frequent repetition of a species of words, certainly not to be commended for their refinement, and not to be literally repeated. Coming out of his house one morning, he observed his neighbor Eager, with workmen, digging a hole to set his sign-post, and the sign in question standing near. Said he, looking at it, and recognizing the likeness, "What have you got there, — a head of old John Adams? You are not going to stick that up here; we won't have it here. Do you think we are going to have that old face stuck up, so that we can't look out of our windows without seeing it?" — "But," said Mr. Eager, "it is a handsome picture. I have bought it and paid for it; it will answer my purpose very well as a sign, and I must put it up." This only called down a new flood of vituperation upon the picture and its counterpart, and a fiercer declaration that it should not be hung up in that vicinity, to be the abhorrence of all beholders. But when this violence of passion and language had partially subsided, and the captain came to consider Mr. Eager's remark, that it was his, and he had a right to put it up, that the sign was still a handsome picture, and its great counterpart, though now out of power, still beloved and respected by a great portion of the community, the question naturally occurred to him, "What are you going to do about it?" After a moment's pause, the answer to the question was obvious; he could do nothing to prevent it. The next step was to come to a parley, and propose some terms of compromise. The captain then said to him, "We don't want that head of old John Adams stuck up here before our eyes, to be seen every time we look out; but if you'll go to some good painter, and have that face brushed out, and have a good likeness of Tom Jefferson put in its place, the neighbors here will make up a purse and pay for it." This was a proposal worth considering. Jefferson was popular, and Jeffersonian politics decidedly in the ascendant. He would have a new and fresh sign, without expense, and, whatever were his own political propensities, he had no objection to a good run of custom to his house, from whatever quarter it might come. He acceded to the proposal; and this was the origin of the Jefferson Tavern, regarded for some time as the head-quarters of the republican party.

committee were legally liable, and whether an action would lie against them personally for the whole amount. This was a question of some difficulty. It is probable that the committee had looked only to the sale of tickets as the fund for the payment of Mr. Eager; but, in the events which had occurred, it was quite manifest that, if Mr. Eager could not charge the committee as upon their personal contract, he was wholly without remedy. This depended upon a careful consideration of the terms of their engagement with him, and the various orders which they had given him; and it was not until after an investigation of the circumstances, and some examination of the evidence, that Mr. Selfridge came to the opinion that the members of the committee were personally liable under their contract. Mr. Eager then requested him to commence a suit against them, which, after a few days, was done.

Shortly after the commencement of the action, Austin, in the insurance office of Russell, when rallied upon the subject, replied that the case had been instituted by a federal lawyer, at his own solicitation. This remark having come to the ears of the counsel, he demanded, through his friend, Thomas Welsh, and also by correspondence, that Austin should retract. Satisfied that he had been mistaken in his statement, Austin contradicted the story at the insurance office, and also to Colonel Gardner; but not so generally and fully as to content Mr. Selfridge. After some days allowed for further concession, which Mr. Austin showed no disposition to improve, Selfridge posted him on Monday, the fourth of August, in the Gazette, as a coward, liar and scoundrel. Austin, who had notice of what was intended, put a counter statement, without using any objectionable expression, into the Chronicle. The publications produced great excitement throughout the town, and general expectations of a personal conflict.

Charles Austin, son of the defamed, a young man of remarkable promise, and a universal favorite among his

friends and acquaintances, at the age of eighteen, was just completing his college course at Cambridge, but that morning chanced to be in town. For a moment, after reading the offensive paragraph, he decided not to notice it; but soon after, changing his determination, purchased, about ten, at the shop of Sheffer, a stout cane of hickory. The next three hours were passed by him in social visits, and with his young companions, not apparently preoccupied, but calm and cheerful as usual. At one, we find him conversing with a friend on the south side of State-street, by the shop of Townsend, on the west corner of State and Congress streets.

Meanwhile, Selfridge, having intimation of an intended attack to be made, not by Mr. Austin himself, but by some one in age and strength better suited for such a purpose, prepared to defend himself as he best could. Residing at Medford, and often late upon the road, he was accustomed to ride armed, and going that day, about one o'clock, on the exchange for some business avocation, he put a pistol in his pocket. Passing down the north sidewalk of the old state-house, in which he had his office, he proceeded nearly in a direct line down the street. When opposite the centre of the present Merchants' Bank building, where then stood the barber shop of Lane, Austin moved quickly towards him from the sidewalk, with his cane uplifted, and struck him a heavy blow, which, even through his hat, inflicted a severe contusion, of three inches by two in breadth and nearly one in depth, including the inflammation that it caused. Upon this Selfridge drew his pistol from his pocket, cocked, and discharged it at Austin. The ball entered below the left breast and in a course oblique and diagonal with the trunk of the body, inclining towards the left, and passing through the lungs, but not the heart. Other blows were struck, which Selfridge warded off with his pistol, which he finally threw at his assailant. Austin's stick was wrested away from him for a moment, but imme-

diately recovered; his blows, however, soon grew weaker, and he sank dying on the pavement.

It was high 'change, and State-street was thronged with merchants; yet, as the whole affair occupied but a single moment, there was no chance to interpose. The dying man was conveyed to the shop of Townsend, where he soon expired, and somewhat later Selfridge, surrendering himself to an officer, was committed to prison.

The federalists and republicans needed not this additional fuel to their hate. Mr. Austin, author of *Honestus*, *Old South*, and the *Examiner*, had been long an active politician, and, if disliked by the federalists for his censorious spirit and bitter denunciations, was much esteemed by his own party. The gallantry of Charles, in throwing away his life to vindicate his father's fame from aspersions, hardly called for by the provocation, created prejudice on both sides against the prisoner. But as the summer advanced and the friends of Mr. Selfridge, with judicious moderation, abstained from public discussion of the affair, whilst in the columns of the *Chronicle* it was a constant subject of bitter comment, there was a perceptible change in public sentiment. Sullivan was accused of writing many of these articles; but this would have been hardly consistent with official propriety, and there seems little reason to believe the imputation.

On Tuesday, the twenty-first day of November, the supreme court held its term at Boston, and Parsons, who, the preceding June, had been appointed the successor of Dana as chief justice, charged the grand jury, of which Colonel T. H. Perkins was chairman. In laying down the law of murder and manslaughter, Judge Parsons omitted certain maxims of general recognition, bearing on the case of Selfridge, and which were suggested, a few days later, in a *Chronicle* comment on the charge, probably written by Sullivan. One of the rules thus omitted was that the party justifying killing from necessity must be him-

self wholly without fault ; another, that he had no other possible, or at least probable, means of escape ; a third, that the crime prevented by the killing would have been itself capital ; and a fourth, that no provocation will avail if sought. It had been usual, in similar cases, to find a bill of murder, because, under such an indictment, the prisoner could be convicted of the lesser offence of manslaughter if there appeared on the trial no proof of malice. The coroner's verdict having been wilful murder, there seemed less reason for the present departure from the precedent. But the grand jury, without consulting the court or the attorney-general, found a bill simply of manslaughter. The cause came on for hearing on the twenty-third of December, Colonel Paul Revere being the foreman of the panel, Gore and Dexter counsel for the prisoner, the attorney and solicitor generals, Sullivan and Davis, for the commonwealth.

The first question between the counsel was as to the extent of evidence to be admitted. Proof of malice or of verbal provocation was not considered competent, but whilst the testimony was strictly confined to the immediate transaction, the intentions of the party in entering into the conflict were allowed to be fair subjects for inquiry. The principal point on which the controversy seemed to turn was which happened earliest in point of time, the first blow with the stick, or the shot. Lane, Howe and Frost, witnesses for the prosecution, swore that the shot preceded any blow, the two last adding that Selfridge fired before Austin left the sidewalk. The witnesses for the prisoner slightly disagreed. Bailey said that the blow was descending when the pistol was discharged ; Zadock French and Erving, that they were simultaneous. Edwards saw the whole affair, but could not say which occurred first. Lewis Glover, who went into State-street expressly to witness the affray, swore positively there was one blow before the shot ; and his statement was corroborated by Wiggin, who, hearing a blow, turned and saw the pistol fired.

The most remarkable discrepancy was as to the testimony of Lane, the barber. He had two customers in his shop at the time, Dudley Pickman, of Salem, and Major Melville. The latter confirmed the statement made by Lane himself, that he was standing at his door; while the former testified that Lane was so seated inside the shop that he could not have seen the commencement of the conflict, but started up when the shot was fired. This imputation upon his veracity was said to have impaired the health of Lane, and has been also very gravely stated to have caused his death.

Gore and Dexter made able arguments for the prisoner. That of Dexter, on Christmas day, was unusually eloquent, even for this great forensic orator. He did not, as the others, trust to the stenographers for the report of his speech, but copied it out himself, and consequently it reads more smoothly than the rest. The openings on either side, by Gore and Davis, were able; and some of their more striking passages, were it appropriate, it would be agreeable to place before the reader. Sullivan had been busily engaged in other cases at the same term; and, in the trial of Hardy, a few days before, for the murder of his child, had been obliged to make great exertions. On the sixth of December, a most afflicting calamity, in the sudden death of his son Bant, in a moment of disappointment, under his own roof, overwhelmed him with affliction. Yet, with all this to distress, and shattered health to enfeeble, he took the lead in presenting the law and examining the witnesses. Below will be found a portion of his argument, which will compare favorably with that of either of his antagonists. Although it is not easy to convey any adequate notion of a legal argument, extending over many hours, by detached passages, these extracts afford some imperfect idea of his address to the jury:

“It is my official duty to close this cause. If I can perform it by a simple, accurate and intelligible arrangement

of the facts, and a just and pertinent application of the legal principles by which they are to be governed, I shall be satisfied. I will not play the orator before you, or pretend to make a speech. If I were capable, I would not do it on this occasion. Circumstanced as I am, nothing but duty could induce me to undertake this task. No pecuniary reward could engage me in it. Nothing, I repeat, but the sense I have of my official duty, and a wish to comply with public expectation, could induce me this day to appear before you. But I thank God that, through the course of what may be called a long life, I have had firmness to do my duty when I had a duty to do.

“When one of our fellow-citizens, in the open street, at noon-day, undertook to destroy the life of another, it was necessary to inquire by what authority he did it; what legal process or warrant of law he could have had for conduct of such consequence to the public, as well as to his victim. Is there any cause for wonder that he should have been apprehended and carried before a magistrate; that that magistrate should have exercised the same power which he would have been obliged to do had it been the case of either of you, gentlemen of the jury, or of any other member of this community? When he found the killing was voluntary, and not occasioned by any accident, what was the magistrate to do? Was it for him to decide the difficulties you have to encounter in this cause, and declare the act murder or manslaughter, justifiable or excusable homicide? He was bound to commit the prisoner to take his trial, who, if there were anything wrong in this, had the remedy in his own power. The supreme court, upon a habeas corpus, might have set him at liberty; that is a writ of right, and would have been granted, if by law it ought, as of course, had he applied for it. If he chose to decline the application, and lay in prison, he had his reasons; he is a lawyer, and must have known the consequences. Every other man in the community would

have suffered like inconvenience with that sustained by the defendant under similar circumstances. Why, then, this warm and eloquent address to the passions and feelings? Are they intended to influence you, gentlemen of the jury, and divert your attention from the justice of the case by an appeal to the feebleness of his health, and the weakness of his person? or is it aimed to injure the reputation of the officer who, *ex-officio*, moved the commitment of the defendant to prison? Be it so; but I hope I shall continue conscientiously to discharge the duties of my public function, regardless of every other consideration than that of the duties which I owe the commonwealth.

“We are asked why this great crowd has attended this trial? Many, no doubt, from curiosity. Is it to be wondered at that a crowd also attended at the exchange on the day the defendant shot the young man in State-street? The human mind naturally shudders at death; and, when a man destroys his fellow-citizen, the attention of all is drawn to the fact. The insinuation respecting the crowd in this court-room glances at party spirit; but had party spirit anything to do with the crowd on the exchange? When one man has struck another out of being, so far as being depends upon existence in this world, is it marvellous that public attention should be on the tiptoe? Is this agitation anything more than the effect of nature’s law? Is it not the uniform principle of our holy, revealed religion? Is it not the voice of God?

“When, upon the fatal event, the crowd assembled in State-street an inquiry was made, who was the man who did this? The defendant boldly stood forth and said, I am the man; and it appears that he raised himself in the middle of the crowd to make the declaration. He had courage, in the midst of this universal cry of who is the man that has done this, to stand forth and avow himself the perpetrator. But courage is not the criterion of truth. This firmness of nerve, this unexampled boldness, has not

changed the nature of the crime, nor can it give us the law to govern the fact.

“The definition of offences, our rights in civil society, depend not upon the character of individuals, or the different constitutions of men; and this cause is important inasmuch as it presents to our discussion a question of principle. It is of no consequence who are the parties, or what the facts on which the issue rests, otherwise than to call into examination the principles which are to guide you in your verdict. It would be desirable to lay out of the question the persons of the deceased and of the defendant, and to consider the cause in the abstract, as if between persons of whom you had never before heard. The principles on which the cause is to be tried must stand or fall by themselves, without any regard to the parties.

“Without fixed and permanent principles, religion itself is a delusion, morality a cheat, politics a source of oppression, and the forms of law but the vehicles of corruption, the mask of chicane and injustice. Principles are no other than the primordial nature of things upon which systems are predicated for the use and happiness of rational creatures. Without them, all is insecurity and confusion, the world a waste, society a curse, life itself but a dream of misery. While religion, founded in the self-existence of the Deity, and the relation of man to the divine nature; while morals, predicated upon the connection between man and man, as brethren; while stubborn nature, fixed on eternal and unchangeable laws, deny to yield to us the inflexibility of their principles, we are left to raise for ourselves those systems of civil social government and jurisprudence, which are best adapted to our situation and circumstances.

“When the sovereign will of the civil community has arranged these, the obligation of each member to submission becomes a moral obligation; crimes result from disobedience; to disobedience penalties are attached.

“Despotism is adapted to a state of savage barbarity, where fear is the only motive to action or forbearance. Yet even there the will of the people, let it be founded on what it may, either on prudence or cowardice, is the foundation of sovereignty. A monarchy and aristocracy, mixed together to form a government, support a state of servile dependence, where the hopes of favor and interest exclude the idea of reward for merit, bring patriotism and public virtue into base contempt, and render fraud, deceit and cunning, the insolent claimants of the rights of truth, talents and integrity. It is in a free government alone that principles, founded in the nature of social virtue, can claim the decision of what is right between man and man, between the individual and civil society, without the corruptions arising from the destruction or irregularity of rights and privileges from party distinctions, and from those frauds of chicanery which are incident to factitious morals and cunningly devised systems of religion and policy.

“I do not propose to occupy your time by such an appeal as has been made by the counsel for the defendant. I will not invoke you to put aside your prejudices, if you have any; an appeal on this head is altogether nugatory; for if you will not obey the obligation which devolves upon you, from your situation, resting on your consciences by the sacred solemnities of an oath, you are not to be reasoned into it by any powers of rhetoric. To a jury acquainted with the obligation of an oath, a caution against being led astray by their prejudices is a caution against acting corruptly, against doing wilfully wrong. If their oath cannot guide their consciences, I should despair of guiding them by anything I could say. I should have spared myself these observations as altogether irrelevant to the issue, had not the opposite counsel gone largely and learnedly into the subject, and urged you to do your duty, free from the influence of party prejudices, regardless of the clam-

ors of newspaper writers, or addresses to the people. In this caution the counsel for the government heartily concur.

“The misconduct of newspapers, in publishing matters relative to a trial while it is pending, is much to be deprecated ; so is all conversation tending to spread false reports. Yet such is the universal feeling of mankind, that they will talk, and also print, on such subjects, wherever the press is free. It is one of the alloys which mingle with the precious metals ; and it is better to enjoy the freedom of the press, though attended with this inconvenience, than to restrain it by laws, as is the case in other countries. The impressions thus made are very inconsiderable ; and the enlightened minds of this jury are above all considerations flowing from such a source. Whatever you may have heard out of doors is left at the threshold of this sanctuary of justice, and passes by like the idle wind, no more to be regarded than the whistling of a school-boy, trudging along with his satchel in his hand. The report of this cause will probably be published. The world will judge how far your decision is made up from the testimony given at the bar. They will know how to estimate the various reports you have heard, the newspaper clamors and artfully devised handbills. These, with the papers themselves, will be consigned ultimately to the neglect they deserve. What alone should occupy your attention are the facts which have been given in evidence.

“One man has killed another. The laws of God and of our government call upon you to inquire if he can excuse himself. This is no light subject. There is an Omniscient Judge, before whose seat we shall all appear, to answer for our conduct on this solemn day. We must therefore decide with purity and integrity, if we expect to avoid the judgment pronounced against those who corrupt the tribunals of public justice. I will place a mirror before your eyes, by which each of you may compare the fairness and justice of his intentions, and perceive how far he is mis-

led by his prejudices or political principles. Suppose the parties reversed, and the defendant had been the victim of this unfortunate controversy. What would then have been your verdict? Doubtless, the same as you will give in this cause. This is the standard of security, this the solid tenure by which our fellow-citizens hold their equal right to public justice, insured to us by our constitution and our laws.

“The counsel for the defence has addressed you with warmth and energy as a politician. He supposes you to consist of two conflicting parties, and, with an elegance of manner and strength of language peculiar to himself, has conjured you to lay aside all political impressions, whether they be favorable to the federal, republican or democratic party. He particularly addressed himself to those who agreed with him in political sentiments. I will imitate him in some degree, but will address you as all entertaining opinions similar to my own. None of you wish to subvert the government, or infringe the law. If, then, you mean to support our happy constitution, and obey the dictates of our holy religion, you are of the same party as myself. Would you break up the foundation of the great deep, and destroy the basis of the federal government, and leave it to chance when or how we should obtain another? You may think the present constitution might be made better; yet it might be worse. Like other human inventions it has its imperfections. You would not unnecessarily encounter the hazard. You are then all of my party. If you prefer our democratic institutions to a monarchy, an aristocracy, or a mixed government, we all think alike. Is there one of you who would alter our system of jurisprudence or relinquish the inestimable right of trial by jury? If not, you all think as I do. Is there one of you who thinks the millions expended at the city of Washington in public buildings and improvements, for the accommodation of the general government, as well expended in serving to

tie the several states of this continent in the indissoluble knot of perpetual union and amity? Such, also, are my sentiments. Is there one of you but believes the state-house on Beacon Hill was intended for, and will produce, the happy effect of combining the interests of the several parts of the commonwealth, and that, although attended with expense, this expense may prove a blessing? You all join in this belief. I also am of your opinion. Strangers who are present will pardon me for being so local; they are not, perhaps, acquainted with our domestic politics; but I love and feel for my native state, and the circumstance I have alluded to has been important. If you think of our union at home, and our foreign relations, as Washington, the great and good, thought, and as he has written in his farewell address to the citizens of the United States, you will engrave it on the tablet of your memory, teach it to your children, and bind it as a talisman to your heart, in order to perpetuate the freedom of our common country to the end of time.

“Is there one of you who would engage your country in foreign wars, in order to benefit a few great men who would become the leaders, as they have been the agitators, of such desperate measures? The consequences of war are known to many who hear me. Never more may I see the parched earth of my country drenched with the blood of my fellow-men; its tender mothers, wives and children, flying from their dwellings into the wilderness to escape the foe. You, gentlemen of the jury, are friends to the peace of your country, and therein I cordially join with you. I address you as the lovers of your country, and there is no difference in our opinions.”

In his argument for the prisoner Mr. Dexter had said: “We have taken a view of the facts and the positive rules of law that apply to them; and it is submitted to you with great confidence, that the defendant has brought himself within the strictest rules, and completely substantiated his

defence, by showing that he was under a terrible necessity of doing the act ; and that by law he is excused. It must have occurred to you, however, in the course of this investigation, that our law has not been abundant in its provisions for protecting a man from gross insult and disgrace. Indeed, it was hardly to be expected that the sturdy hunters, who laid the foundations of the common law, would be very refined in their notions. There is, in truth, much intrinsic difficulty in legislating on this subject. Laws must be made to operate equally on all members of the community ; and, such is the difference in the situations and feelings of men, that no general rule on this subject can properly apply to all. That, which is an irreparable injury to one man, and which he would feel himself bound to repel even by the instantaneous death of the aggressor, or by his own, would be a very trivial misfortune to another. There are men in every civilized community, whose happiness and usefulness would be forever destroyed by a beating, which another member of the same community would voluntarily receive for a five-dollar bill. Were the laws to authorize a man of elevated mind and refined feelings of honor, to defend himself from indignity by the death of the aggressor, they must, at the same time, furnish an excuse to the meanest chimney-sweeper in the country for punishing his sooty companion, who should fillip him on the cheek, by instantly thrusting his scraper into his belly.

“ The greatest of all public calamities would be a pusillanimous spirit that would tamely surrender personal dignity to every invader. Surely, I need not say to you that the man who is daily beaten on the public exchange cannot retain his standing in society by recurring to the laws. It is a most serious calamity for a man of high qualifications for usefulness, and delicate sense of honor, to be driven to such a crisis ; yet, should it become inevitable, he is bound to meet it like a man, to summon all the energies of the soul, rise above ordinary maxims, poise himself on his

own magnanimity, and hold himself responsible only to his God. Whatever may be the consequences, he is bound to bear them, and stand, like Mount Atlas,

‘When storms and tempests thunder on its brow,
And oceans break their billows at his feet.’

“Do not believe that I am inculcating opinions tending to disturb the peace of society. On the contrary, they are the only principles that can preserve it. It is more dangerous for the laws to give security to a man disposed to commit outrages on the persons of his fellow-citizens, than to authorize those, who must otherwise meet irreparable injury, to defend themselves at every hazard. Men of eminent talents and virtues, on whose exertions, in perilous times, the honor and happiness of their country must depend, will always be liable to be degraded by every daring miscreant, if they cannot defend themselves from personal insult and outrage. Men of this description must always feel that to submit to degradation and dishonor is impossible. Nor is this feeling confined to men of that eminent grade. We have thousands in our country who possess this spirit; and without them we should soon deservedly cease to exist as an independent nation. I respect the laws of my country, and revere the precepts of our holy religion; I should shudder at shedding human blood; I would practise moderation and forbearance to avoid so terrible a calamity; yet, should I ever be driven to that impassable point where degradation and disgrace begin, may this arm shrink palsied from its socket, if I fail to defend my own honor!

“Change situations, for a moment, and ask yourselves what you would have done, if attacked as he was; and, instead of being necessitated to act at the moment, and without reflection, take time to deliberate. Permit me to state, for you, your train of thought. You would say, This man, who attacks me, appears young, athletic, active

and violent. I am feeble and incapable of resisting him; he has a heavy cane, which is, undoubtedly, a strong one, as he had leisure to select it for the purpose; he may intend to kill me; he may, from the violence of his passion, destroy me, without intending it; he may maim or greatly injure me; by beating me he must disgrace me. This alone destroys all my prospects, all my happiness, and all my usefulness. Where shall I fly when thus rendered contemptible? Shall I go abroad? Every one will point at me the finger of scorn. Shall I go home? My children—I have taught them to shrink from dishonor; will they call me father? What is life to me, after suffering this outrage? Why should I endure this accumulated wretchedness, which is worse than death, rather than put in hazard the life of my enemy?"

The argument in this eloquent passage Sullivan refuted as follows: "We must have some guide, some settled rule, some law, some known established principles, or society no longer exists. A confused state of nature reigns. Every man's arm, his art, or his cunning, is his own safety; every man is the avenger of his own wrongs. Had I the sentiments expressed by my learned brother, feeble as I am, I would go forth from day to day trusting in mine own arm alone, with the aid of such weapons as my strength would bear; magistrates should be avoided, and the volumes of laws become the pavement for the soles of my feet.

"Many things are said by professional men, in the warmth of debate, which, in their cooler moments, they would gladly retract. Upon the manner and measure of resentment, or self-defence, is there no other law but the feelings of men, the differences of their disposition and temper? Are there men, nay, a multitude of men, who have a natural right, from their feelings, from their high sense of honor, to defend themselves when and where others of less feeling may not? Is it the voice of nature

which makes this distinction? Is this sense of honor, are these feelings, a privileged exception to certain individuals which raises them above the rules of the gospel? Is the rule, to do to others as you would be done unto, reduced to this standard, that a juror shall acquit the defendant, if he believes that he should have acted himself by the same motives, or been seduced by the same temptation? Is there any distinction between the would-be nobleman and the chimney-sweep? for we are to suppose, from the distinction taken by the defendant's counsel, that these are the Alpha and Omega, the head and tail of the links that form civilized society. Is there a distinction between them as to their privilege of self-defence? Is the push of the sweep, or a stroke with his scraper at the head of his comrade, to be murder in him, whilst the other shall be allowed, with his gold-headed cane, or his elegantly-mounted pistol, in defence of his honor, to play a secure but mortal game, and be justified in killing, on a like provocation, either his friend or his foe, or, as in this case, a man he is hardly said to know? You are not, then, to determine his case by the circumstances attending it, but by the nice sense of honor of the gentleman, or the distinction and dignity of his station. What, then, has become of that part of the constitution which declares ours to be a government of laws, and not of men? If the law does not apply equally to all, how then can it be said that every man holds his life and fortune by the same tenure as his fellow-citizens, whatever his rank, his condition or standing in the community?

"We are told there are those amongst us who will, with their own arms, vindicate their rights, and stand the guardians of their own honors. There may be, but I do not know them. I hope I shall not meet with any citizen who does not rely for his safety on the laws of the government, and the justice of civil society. We are told that the laws of Christianity sanction self-defence; and it is asked how then

can the laws of society regulate this matter? I do not admit this position to be just. All men are bound to surrender their natural rights upon entering into civil society, and the law becomes the guardian of the rights of all. Why are duels criminal, if the men who engage in them have this privilege of maintaining their own honor?

"It is said that the defendant was driven to such an awful crisis that he could not extricate his honor but by killing his assailant, and his counsel ask, 'What could he do?' and my answer is, appeal to the laws. But, say they, laws are ineffectual, suits slow of remedy, and their end uncertain. Where would such reasoning lead us? You have it, in testimony, that the defendant reasoned in this way, and that mode of reasoning brought on this sad event. You have heard his counsel, in a stream of eloquence, advance the same idea, and make a personal application of the principle. 'No man,' says he, 'is bound to surrender his own honor. If I do, I wish my arm may be shrivelled by the palsy, and drop from its socket. No; I will vindicate mine own honor to the death.' I would rather he should retain the use of his limbs, as well as the faculties of his mind, to employ them in the true field of honor, the defence of his country, when necessity may require their exertion. Is he obliged to adopt this same erroneous course of reasoning in order to justify his client? Have we, as a civil society, higher authorities than our own law-books to appeal to on such an occasion as this? Are they such as the counsel would not shrink from on the penalty of his life?

"We will not take up the glove; we will rest our defence both of the lives and honor of our fellow-citizens upon the laws of the land. We will trust to them, and not to deadly weapons, for protection. Such declarations would countenance all the duels that have been fought in the world, and render unavailing all laws that have been enacted for the punishment of illegal and savage contests.

The tardy steps of the law were too slow for the defendant; they could not keep pace with his rapid strides to obtain immediate vengeance. What if his fame and character had been injured? Has he superior privileges? Ought he not to take the common lot of his countrymen? What excuse has he more than others? Has he the excuse even of an officer? He is both a lawyer and a gentleman; but this does not give him a right beyond what all the individuals of this society possess. Should he suffer, he will suffer no more than every other person who perpetrates a similar act while controlled by the laws of his country. If he is innocent, he will be acquitted; if guilty, he will take the common lot of other men. I do not feel any interest in what your verdict may be, further than that justice, in the common way, and on general principles, should be done.

“Is the measure of a man’s conduct, when he leaps the bounds of written established law, to receive a standard from the feelings of his wife and children, from the notions of honor in the congregations of fashionable men? And can a man appeal to Heaven in this way, and be a pious Christian? When I heard the doctrine advanced on this occasion, by professional men, I shuddered at it. Not being able to fathom this abyss of troubled waters, not having courage and firmness to cast away the guardianship of social protection and the laws, not having an imagination that can show the lines of security beyond those of civil government, I will yet believe the laws to be fully adequate when we have time to apply to them, and I will fondly suppose that I am, to every possible purpose, in a state of civil society and social security. The laws may be imperfect, for so is human nature; the remedy may be slow and below my wishes, but I will not claim to be my own judge; I will not say that I have a right to appeal to this arm to avenge an injury whilst the law affords me a complete remedy. His counsel ask how the defendant could have

gone home to his wife and children with his honor stained by blows received upon the public exchange. If a man of great sensibility has received a blow, can he not appeal to the law of his country without tarnishing his honor, or injuring his family? If his wife is a virtuous woman, she will applaud his moderation, and be gratified in teaching her children to pursue a similar course through their future lives; no one will deem him disgraced by the blow, though he has not destroyed his adversary. If we are to return to the barbarous times, so well described by Robertson in his history of Charles the Fifth, when every great man went armed with his trained bands to encounter whom he might meet, without regard to law, either human or divine; if heroism and honor and chivalry are to return, we may expect to see again those combats so happily described in the well-known ballad of Chevy Chase, and this promised land, flowing with milk and honey, turned into a field of battle, and crimsoned with the blood of our fellow-citizens. I trust we are now too far advanced in civilization to return from the light of this day to the barbarisms of the thirteenth century, when the interposition of the pope and his council became necessary to prohibit these misadventures. Whatever opinions we may have of the Roman Catholic religion, we are indebted to its influence for this good deed, which all the potentates of Europe combined could never have effected.

“There has been unnecessarily introduced into this cause what I wish to lay out of the question before I proceed. The gentleman on the other side is above personalities in a cause of this importance; but he draws a picture in the darkest colors, and leaves you to point out the original. He says that some one has been standing in the gutter for the last twenty years, throwing mud at every well-dressed gentleman that passed by, and that he has no reasonable ground of complaint should he be a little spattered himself. I ask whether, if it be true that a man has done this, that

he is to be outlawed? Are he and his family to be hunted and shot down at noon-day? This is not the punishment for libel. If he is to be condemned for libelling, let the innocent man among his accusers cast the first stone. I have had my share of such opprobrium, but it never came into my mind to redress myself by shooting one of my fellow-citizens. He wrote, they tell us, against Washington; so did Hamilton against Adams, and others of his administration; but Austin authorizes me to deny the charge of his writing against Washington. Who wrote against Hancock, and Samuel Adams, and Washington, and all the great men who produced the Revolution? Are all those writers outlawed? If any of them were punished, it was in pursuance of the laws of their country. We have no check beyond that. Who is there, of consequence enough to deserve notice, but is the object of daily slander? Where will these ideas carry us? Are they compatible with the elegant expostulations of both my brethren against political prejudice? They would carry us back to the barbarous ages, and make it necessary for every man to become an expert combatant.

“But should we lower our notions of honor, and condescend to bring our feelings to the rules of law, we have to inquire whether the defendant has proved, beyond a reasonable doubt, that the fact of killing was committed in such a manner as to render it lawful, and excuse him from all blame. Was the death a voluntary killing? That is to be decided by the weapon and manner. Was it by justifiable or legal warrant? Was it an accident or sudden provocation? In sudden combat, or in pursuance of a design unlawful in itself and unjustifiable by the established laws of our government? Should you be satisfied, from the opinion of the court, that it is of no consequence whether the pistol was fired before a blow was given by the deceased, you will be much relieved. But, if that fact be important to the case, you will then have to consider whether the

assault was previous to, at the same time, or after, the mortal stroke.

“In these inquiries what is to be your guide? Are you left to the nice feelings of a man of honor, to be decided on his apprehensions at the moment, and to make a separate law in each case, as it arises; or are there established laws to guide you? The constitution has fixed a system by which the courts of justice are to be governed. The books which have been cited contain these laws, which are laws, though not made by legislative authority. They were made by the voice of the people; and this, which is the highest authority, has said that these books shall be the law of the land. For this I refer you to the constitution, where it is declared that all the laws, rules and practices, in the judiciary department, which have been heretofore adopted, shall continue to be law until they shall be altered by the General Court of the commonwealth. They were brought by your ancestors from the land of slavery; they have been wet with the mists of the Red Sea, washed in the waters of Jordan, and are now our garments of comfort in the promised land; yes, in the promised land. You, young men, who have only heard of the Revolution, may smile at the simile; but the venerable and aged members of the community, many of whom I see around me, know what it was to have passed through the wilderness, through difficulties and dangers almost unparalleled. They will not willingly relinquish their principles.”

These extracts might be extended; but, in the performance of his duties as public prosecutor, however much disposed, like all other men, to make an agreeable impression, Sullivan was rarely tempted into any parade of language, or efforts at oratory, from a wish to gain admiration. Occasions for useful generalities, for the inculcation of important truths, were constantly presented; and, where promising to conduce to the cause of justice, were readily and sometimes very happily improved; but the chief part

of his jury addresses were occupied of course with his comments on the evidence; and in this, shrewdness and method, knowledge of human nature and of character, were more conspicuously displayed, than any graces of rhetoric or felicities of expression. In this particular case of Selfridge the witnesses were numerous, their testimony conflicting, and the powers of his mind were concentrated rather upon eliciting the truth than gratifying the taste of the audience.

Judge Parker instructed the jury that if the defendant had no view but to defend his life and person from attack, did not purposely throw himself in the way of the conflict, but was merely pursuing his lawful vocations, and could not have saved himself otherwise than by the death of his assailant, then the killing was excusable homicide; provided the circumstances of the attack would justify a reasonable apprehension of the harm he had the right to prevent. He thought the fact, that the blow was first inflicted, was of importance to the defence. The jury deliberated fifteen minutes, and then agreed upon a verdict of acquittal.

Whatever may have been the merits of the original controversy, and, it is recorded, this was sincere subject of regret both to Mr. Selfridge and his friends, the verdict has been generally considered correct, according to established principles of law and the particular evidence. Confining himself strictly to the discharge of his duty as public prosecutor, the attorney-general was, from the peculiar circumstances of the trial, naturally regarded as the especial advocate of the republicans, and it gained him additional favor with that party.

Williams, who had been the active editor of the Chronicle, having left the paper early in the summer, double duty had devolved upon its contributors. It is believed Sullivan was among the most industrious in filling its columns. The descriptions of federalism and true republicanism, the

duration and effects of monarchy, the essays on political and social equality and the rights of jurors, bear strong internal indications of his authorship; and the comments on the personal abuse and calumnies of the federal papers, during the late election contests, appear to flow from the wounded spirit of the party most aggrieved, and we are tempted to insert the following, which was no doubt either from his pen or that of Mr. Austin.

“STRANGE STATE OF THINGS WHEREVER IT EXISTS. — ‘You must stop this shooting about newspaper slanders,’ says the federalist, ‘or we are an undone people.’ — ‘But,’ replies the republican, ‘lay the axe at the root of the tree; stop these newspaper slanders; let character and the peace of families be regarded by the federalists, and there will be no occasion for shooting.’

“There is something insolent and audaciously impudent in this exclamation of federalists. Neither age, sex, character or standing in life, can be shielded from the outrageous and groundless calumnies, borne universally and constantly on the gazettes they issue. When those in whom their country has reposed the highest confidence, and whose characters are unblemished, are placed in office, or are candidates for office, the torrent of slander is opened upon them; they are openly charged with the highest and most scandalous crimes; the scandal is reprinted from paper to paper throughout the nation, until it is spread before every eye.

“What is the remedy? There is none. The party injured carries a clear refutation of the slander to the federal paper, where it originated; the editor refuses to publish it; or, if he does, he prints a remark under it to destroy its intended effect; the other federal printers will not publish the vindication, but leave the slander to have its force. If there is a refutation in the republican papers, the federalists will not read it. The leading federalists openly declare that lies and slanders, for political purposes, are not immoral

But they have a very disagreeable and distressing effect upon the subjects of them, and upon society. We must either agree that our gazette information is below our regard, and thus destroy the usefulness of the press, or we must consider moral character of no consequence. What will be said of these things by posterity? Forty years hence, the young man, regarding his advantages arising from family and education, visits the place where his ancestors were deposited; he reads the inscriptions on the marble with the highest satisfaction. There he reads that his grandfather was a patriot; had risked his life and fortune for his country's freedom; was a senator, a counsellor, a representative, and a general officer. He steps into the parish minister's house, to express the agreeable ardor of his sensibility, but there he finds the Centinel, the Palladium, the Gazette, the Repertory, bound up and carefully preserved; and there finds the name of his grandfather loaded with opprobrious epithets by a man who signs his name to the production! Human nature will at once suggest the question, if this was false, why did not my grandfather vindicate his character, the inheritance of his posterity, by the sacrifice of the calumniator? Reason comes forward with another question: If this was true, why did my ancestor possess so much of the confidence of his country? Were all the people of his day destitute of character, as he is publicly posted to have been? Another question still arises: Why did not my ancestor resort to the laws of his country for redress, and publicly vindicate himself in a court of justice, where I can find a record of it? A man, white with age, consoles him by saying, that he lived in that day when the country was divided into political parties, and one party had the rule in government; and that enmity, malice and revenge, against the other, were indispensable qualifications for office. Some of the judges, in most of the counties, were themselves principal calumniators, or the encouragers of those

that were. The clerks, who issued venires for grand and petty jurors, were all on one side, of course, and knew to what towns to send. Under these circumstances, an appeal to the laws would have been in vain. If your grandfather had killed the libeller, he must have been hanged. If he had challenged or struck him, the damps of a jail for years would have wasted his health and ended his life. I am satisfied, says the young man; but when your dust is laid by the side of my ancestors, the volume of newspapers will remain, and who will then thus rehearse the melancholy state of society which existed in his day? Who will then thus vindicate the character on which my family is founded, and from whence my posterity shall trace their origin?"

At the end of September, before the supreme court, then sitting at Northampton, the editor of the Republican Spy had been indicted for libel upon Governor Strong. To the same grand jury, generally federalist, were submitted proofs of the calumnious charges against Judge Sullivan, which had been reprinted in the federal paper of the place; but they refused to indict. For reasons sufficiently obvious, Sullivan declined to act as the prosecutor in the suit against the Spy, and George Bliss appeared for the commonwealth.

Early in February the republican leaders made their nominations for 1807, and Sullivan was again their choice for governor. Levi Lincoln, of Worcester, who had recently resigned the office of attorney-general of the United States, to which he had been appointed by Jefferson, and who had long been distinguished in public life, was substituted for General Heath, as candidate for the second office.

A few days after the nomination, Parsons, of Chesterfield, moved the house for a committee to inquire further "what moneys the attorney-general had received in virtue or under color of his office, in times past, which belong to the commonwealth, and which he has never accounted

for," with authority to send for persons or papers. The motion was prefaced by a long preamble, which was stricken out, and still further amended by extending the inquiry to the accounts of the solicitor-general.

Mr. Parsons, as chairman, and Thacher, another federalist, with King, Bangs and Bacon, republicans, were appointed the committee. The federalist members, finding no other ground of dispute remaining, confined their observations to his right to the costs charged on *scire facias*, a process following, as before stated, criminal prosecutions, but no part of them. The duties of the office were sufficiently onerous and responsible, in the existing criminal arrangements, to earn the salary, which, indeed, was only sufficient to meet its official expenses; and for these more ministerial duties, the costs were the appropriate recompense. The attorney-general had received them for sixteen years, with the full knowledge of the bar, and the various legislative committees who had settled his accounts, and the additional grants had been made him with reference to this fact. The majority of the committee refused very reasonably to discuss this point, and, upon appeal to the house, were sustained by a vote of one hundred and twenty-three to seventy-nine. The committee elaborately investigated all his pecuniary transactions with the commonwealth and county treasuries, since his appointment in 1790; and, after examination of all evidence brought before them, or which they could procure, Sullivan being allowed to explain whatever required elucidation, and after the subject had been before them from the twelfth to the twenty-fourth of February, decided upon their report, which is too long for insertion here, but will be found in the sequel. It was, substantially, that there appeared no reason to suppose that any public moneys have at any time, intentionally and improperly, been withheld from the government, either by the attorney-general or solicitor-general, since the acceptance of those offices; and that, if any errors had occurred, they were probably of an inconsiderable amount, and as few as might reason-

ably be expected in so long a period, and in relation to accounts so various and extensive. The subject was taken into deliberation by the house, and amply discussed. The federalists clung tenaciously to the view that the *scire facias* costs belonged to the state; but it did not prevail, and the report, exonerating Sullivan, was accepted, one hundred and one to fifty-one.

The vote in April was unusually large, eighty-two thousand, of which Sullivan had a majority of two thousand, and a plurality over his competitor, Governor Strong, of two thousand seven hundred.

Thus ended this memorable struggle. Had the federalists recognized more fully the great principle of free institutions, that all parties and classes should in turn participate, by reasonable rules of rotation, in the direction of affairs, they would have probably conducted the canvass with greater generosity. Following an antiquated maxim, that, being in possession of power, it was theirs by right, they resorted to expedients to discourage and defeat their assailants, which would not have been justified by their better judgment. Vestiges of this savage warfare still remain in public libraries, hid away in volumes of newspapers, too ponderous to be often disturbed. Other traces are to be found in the memories of survivors, or in ancient tales already passed into tradition. When nearly every voter in the commonwealth deposited his ballot, when, year after year, the result was decided by a few hundreds, on one side or the other, it was evident the battle was not confined to politicians, but raged throughout the community. A gentleman relates this incident, which goes far to show the asperities of feeling mingling in the contest: His father was a zealous republican, and had for his most intimate friend a federalist, equally ardent. They quarrelled about this election, and, for forty years, had no further intercourse. When the federalist lay upon his death-bed, the ancient republican made a long journey to make his peace with him before he died.

CHAPTER VI.

ADMINISTRATION.

It was not with any very sanguine expectations of deriving either pleasure or credit from their performance that Judge Sullivan entered upon his new duties. In a letter to his friend, General Dearborn, then secretary at war, he writes, under date of the tenth May, 1807: "The federalists can never be reconciled to me; they will treat me as they do Mr. Jefferson; they will abuse me in all I shall do. An attempt to conciliate them may lose me the confidence of the republicans, but can never gain me theirs. I should prefer a private station, were it not that I cannot give the country up to their control; and my reputation is dear to my feelings." Determined, nevertheless, to be governor of the state, not leader of a party, and, following the dictates of his conscience and good sense as the only rules of his political guidance, by never compromising principle to gain popularity, and proving himself as strictly impartial as he was permitted to be by his council, he was agreeably disappointed in the sequel in securing the good will of both parties. Some of the more unreasonable on his own side were, at times, vexed at his independence; but, among his moderate opponents, animosities, that would have gladly defeated his election, were exchanged for friendly dispositions of respect and even of support.

He had an able coadjutor in the council in the lieutenant-governor. Unwavering in his devotion to republican prin-

ciples, and holding a distinguished position in its ranks, no one had contributed more effectively to the ascendancy and strength of the republican party than Levi Lincoln. Born in 1749 at Hingham, the home for many generations of a widely extended family of his name, his early exhibitions of talent indicated the propriety of a liberal education, and he graduated at Cambridge in 1772. His original intention was preparation for the pulpit; but, accidentally entering a court-room, where John Adams was engaged in argument with his accustomed eloquence, he felt himself irresistibly attracted towards the legal profession, and studied law with Joseph Hawley, at Northampton. Establishing himself at Worcester, he gained distinction for learning and ability, and, with few competitors, rapidly commanded an extensive practice. The prominent part he took in the cause, which put an end to slavery in Massachusetts, as related in a previous chapter, will be remembered. He attached himself early and without hesitation to the cause of liberty, having joined the army before Boston in April, 1775, and, on his return to Worcester, was chosen one of its committee of correspondence. His animated appeals to his countrymen, and readiness to improve every occasion to inspire them with generous sentiments and keep alive their ardor, placed him early among the patriot leaders. He was a member of the convention for framing the state constitution, and in February, 1781, elected a delegate to Congress, an honor he declined. In 1796 he attended the General Court, and the year following was in the senate. Chosen to Congress from his district in 1800, he was, shortly after taking his seat, appointed by President Jefferson one of his cabinet, as attorney-general, and performed, also, for a short period the duties of the state department. Family considerations, in 1804, induced his resignation; but, in 1806, he had permitted himself to be elected to the council.

One essential element of his political influence was his

ready pen; and his contributions to the press were frequent and varied; those over the signature of Farmer gaining him most reputation. His professional career had ever been among the most distinguished; and he was particularly celebrated in ecclesiastical cases, then of frequent occurrence in Massachusetts. President Madison, in 1809, nominated him to a seat on the supreme federal bench; but his health prevented its acceptance. Conscientious both in his public and private relations, and zealous in the performance of every duty, the vigor of his mind and the earnestness of his character gave him the lead among the western and central republicans; while his steadfastness to principle, his loyalty to his friends, and honorable but uncompromising opposition to his enemies, secured him a general respect throughout the commonwealth. Upon the decease of Governor Sullivan he was called upon to administer the government; and, twenty years later, his sons, Levi and Enoch, were, at the same time, respectively governors of Massachusetts and Maine, which, in 1820, were formed into separate states. The other members of the council, excepting General Timothy Newell, who was now added, had served the preceding year. They were Samuel Fowler, William Widgery, Nathan Weston, Marshall Spring, Daniel Killam, William Eustis, Benjamin J. Porter, and Thomas Hazard.

The administration of Governor Sullivan, though brief, occurred at a period when various momentous events combined to disturb the public tranquillity, and which demanded, to meet them satisfactorily to himself and his constituents, all his energy and prudence. The details of his official career would have little claim to attention, and we should hardly venture to present them to our readers, if we possessed other memoirs of our chief magistrates. But, with the exception of the life of Vice-President Gerry, chiefly dealing with political affairs upon a more extended theatre of action, none of any length have been given to the public.

In contrast with that general system embracing the whole confederacy, the practical working of the institutions of a single state may seem unimportant; yet the functions of government most vital to the happiness and prosperity of the individual have been reserved to the separate state sovereignties. The constitution of Massachusetts remains much as when established, and promises for a long period to come to defy all attempts at material innovation; but its jurisprudence, keeping pace with the progress of the age, has been constantly undergoing changes. Many laws and usages, inherited from provincial days, have been repealed or become obsolete; while others, more in unison with modern wants and sentiments, have been gradually taking their place. These changes constitute an important part of the state annals, and have not been overlooked by its able historians. Still, from a necessity of compressing the events of more than two centuries into the limited space they have allowed themselves, many topics have been but lightly touched, and, in some instances, wholly omitted, which, from their important bearing on our present experiences, deserve particular notice. Some slight outline of an administration of state affairs half a century ago, even should many of its incidents appear either trivial or too familiar, may, therefore, find readers, where all are, or should be, politicians.

The republicans now, for the first time since the retirement of Governor Adams, in 1797, were in possession of all branches of the state government. In the senate they chose Samuel Dana, of Groton, as their president, by a majority of one; Perez Morton, speaker of the house, by two hundred and forty votes against one hundred and ninety-one, and Charles P. Sumner, as clerk, by about the same vote. Among the Boston delegation to the house, twenty-seven in number, and all federalists, was William Sullivan, eldest son of the governor. Jonathan L. Austin was rechosen secretary of state, and Thompson J. Skinner,

who had been long in public life, and who possessed much influence in the western counties, was again chosen treasurer. Barnabas Bidwell, of Stockbridge, had done good service in the recent campaign, and now, resigning his seat in Congress, where he had taken a distinguished position, was created attorney-general. The election sermon was preached by Rev. William Bentley,* of Salem, editor of the *Essex Register*, and a warm friend of Governor Sullivan.

* William Bentley, born in Boston, twenty-second June, 1795, and adopted by his maternal grandfather, William Paine, graduated at Cambridge, in the class of 1779. After holding the position of master of the North Latin School in Boston, and that of tutor of Latin and Greek in the university, he was chosen, in 1783, colleague pastor of the East Church in Salem. His preparation for the ministry was made under the direction of Dr. Samuel Cooper, who preached his ordination sermon, and Dr. Ebenezer Pemberton, pastor of the Old North, of whose church he had early become a member. At college Mr. Bentley was distinguished as a Hebrew, Greek and Latin scholar, and to his collegiate acquisitions he added a profound knowledge of Arabic and German, and an excellent acquaintance with French, Spanish, Portuguese, Italian and Dutch. He read Persian and Syriac, and had a better knowledge of Sanscrit and Chinese than any scholar in the United States. He carried his inquiries into the cognate languages, and had a larger library and better apparatus for the prosecution of such studies than any other individual in the country.

Soon after his settlement at Salem he boarded in the family of a widow, whose son, on whom she was dependent, was editor and proprietor of the *Salem Register*. The son was struck down with illness, from which he never recovered, though he lingered long; and Mr. Bentley, through kindness, conducted the paper from week to week, thus securing a support to the worthy family. In the mean time he had received an application for assistance from Professor Ebeling, of Hamburg, who was preparing a geography and history of the United States, and needed materials. The temporary editorship of the paper showed Bentley how useful it might be made in furnishing what was needed by Mr. Ebeling; and, on the death of Carleton, he continued to edit the paper, and, for twenty years, furnished a summary of events, twice a week, to its columns. The principal papers in the country were sent in exchange for the *Register*, and these were regularly forwarded to Hamburg. This will serve to explain the connection of Mr. Bentley with a political newspaper. He was himself no politician, though zealously attached to the political institutions of the country. The *Register* was a republican journal, and always defended the policy of Jefferson, Madison and Monroe.

As a pastor, Mr. Bentley was exemplary. The people were his family. He

After the late long and bitterly contested canvass, the victors were naturally a little overjoyed at their success, and some of the more zealous record their impressions of the inauguration of the new magistrates, which took place on Friday the twenty-ninth of May, with an enthusiasm hardly to be understood, now that such ceremonials have become more familiar. With a profound prejudice against their opponents, they considered their present triumph that of true republican principles; and, several of the old

knew them all, even to the youngest. He was ready for every good work, public or private; and all the useful institutions of Salem found in him an active and liberal supporter. With a small salary of six or eight hundred dollars, and much of that surrendered to the poorer proprietors, he replenished his library, fed and clothed the poor, aided his relatives, and supported his aged father.

Mr. Bentley was a man of science as well as a scholar. He was the friend of Bowditch, and one of the few who could appreciate the profound labors of his great townsman. He kept, for thirty years preceding his death, a meteorological journal and a chronicle of the progress of science in all its departments. He left three thousand three hundred manuscript sermons, four large volumes of Biblical criticism, and more than fifty volumes of a diary, in which passing events, and his remarks upon them, and upon books and men and science, are recorded. He published six or eight occasional sermons, a small collection of hymns, and the commencement of a history of Salem. He was a zealous antiquarian, and a great collector of facts; and his industry was only equalled by his readiness to communicate what he gathered to others. His colloquial powers were remarkable, and his manners simple, courteous and graceful.

During the administration of Jefferson, the presidency of a national university, to be established at Washington, was proposed to him; but he declined. He received the degree of Doctor of Divinity, from Cambridge, a few months before his death, which took place suddenly, of disease of the heart, thirtieth December, 1819. His funeral address was made by Hon. Edward Everett; and over his remains, in the Salem cemetery, has been erected a handsome monument. His classical and theological works he bequeathed to Alleghany College, Pa.; his oriental manuscripts, antiquarian books, with a collection of portraits, he gave to the Antiquarian Society at Worcester; and the valuable materials for American history, which he collected for Professor Ebeling, have found their way into the Cambridge library, through the generosity of Mr. Thorndike, who purchased and presented to the university Ebeling's collection. The residue of his books, manuscripts and papers, are in the possession of his nephew, William Bentley Fowle, of Boston, to whom we are indebted for these particulars.

patriots being in attendance, whom they were accustomed to identify with the revolutionary struggle, they looked upon the occasion itself as one of more than ordinary interest; a scene, to use their expression, "of moral sublimity, deserving to be perpetuated by the pencil of West, Copley or Trumbull."

The oaths of office were administered by the president of the senate; and, as the governor signed his name and the secretary made proclamation, a salvo of artillery of seventeen guns, unusual on previous occasions, and which was thought, by the federalists, no great indication of republican simplicity, was fired on the Common. The cannon used for the purpose were the Hancock and Adams, two brass pieces of ordnance well known for their effective service in the Revolution. Soon after the termination of the war these guns had been presented to the commonwealth by Congress, and are now honorably lodged in the Bunker Hill Monument. Like salutes were fired also from Copp's Hill and from Charlestown.

On the following Monday, upon first meeting his council, the governor made them an appropriate speech; which, with their reply, through the lieutenant-governor, was printed in the newspapers. The same day, being what is still well known as the artillery election, he took part in its accustomed ceremonial; one nearly coëval with the settlement of the colony, and dating back to 1638. The Ancient and Honorable Artillery, a corps modelled on one long before and yet existing in London, was composed chiefly of commissioned officers; and, in this particular pageant, may perhaps be supposed to represent the military power of the commonwealth. They escorted the state dignitaries, with a numerous attendance of distinguished guests, civil and military, to the old brick meeting-house. After a discourse from Dr. Baldwin,—for religious observances then formed as they do now a prominent part in all state celebrations,—they proceeded to Faneuil Hall, and partook of an enter-

tainment, of which patriotic speeches and toasts were an essential element. A violent storm preventing their parade upon the Common, commissions were presented in the hall to the newly elected officers, with the customary formalities by the governor; and, when this was over, the corps attended him to his house, afterwards returning to resume their festivities. The day following, with the council and other officers of the executive department, he met the two branches in convention, and delivered his inaugural address, which received commendation from both parties, and which, somewhat abbreviated, we present:

"The constitution is formed on principles to guard the legislature from an interference of the executive department; yet, in order to prevent those errors which might otherwise happen from the hurry of business or a change of members in either house, it is made a part of the governor's duty carefully to revise the acts passed by the legislature, and to propose such objections as he may have to any bill they shall lay before him. In the performance of this important duty, I shall always treat you with the respect due to the legislature of the state; and, as I can have no object in view but the true interest of the commonwealth, you will receive my objections, should I make any, as offered with an intention to preserve the happiness of the state, and to promote the public welfare. Should any question arise on the constitutionality of a bill, I must submit myself explicitly to your candor and justice; for, however we may differ in opinion in the application of the constitution, in this we shall always agree, that, in an entire preservation of the social compact by which we exist as a commonwealth, and which is the supreme law of the legislature itself, consists the safety and the prosperity of the people.

"The judicial department will invariably claim the first regard of patriotism. Upon its wisdom and purity freedom, property and all the valuable possessions in civil

society depend. In all countries, the principles and feelings of the magistrates and judges ought to be in a coincidence with the nature of the government, since this is its principal source of energy. The judiciary necessarily is an expensive branch of administration; in a state where an inquiry by grand juries and trials by petit juries are fixed by the constitution as the strong barriers of the people's rights, the modes of punishing crimes, and of obtaining justice on private demands, are more expensive still. A cheap, ready and plain manner of obtaining remedies for wrongs, and of compelling the execution of contracts, by fixed, established rules, forms the strongest lines of a good government. Under this impression, the people, in forming the constitution, declared that all the judges should hold their offices as long as they should behave themselves well, and that the judges of the supreme judicial court should have permanent and honorable salaries, established by law. The office of jurors may be thought by some to be a burden; but if that institution should be abolished, there would no longer be freedom or property. It ought to be guarded by laws, not only against corruption, but against all undue influences and party prejudices. There is no doubt but that improvements may be effected in the jurisprudence of the commonwealth; and therefore the attention of the legislature will not be withdrawn from it. But in all alterations, a sacred regard will be had to the constitution; while the plans adopted shall have such a degree of perfection as to render them respectable and permanent.

"The governor, being commander-in-chief of the militia when they are not in the actual service of the United States, must have a duty devolved upon him, which is of no less consequence to the other states in the nation than it is to this commonwealth. When we contemplate the immeasurable shores we give to the sea, the vast extent of territory our national dominion spreads itself over, we

are obliged to confess the error of a reliance on a standing army for an effective defence against invasion. To preserve the forms of war with the principles and feelings of military discipline, some regular troops are necessary ; but our defence must remain with the militia. They are a perpetual guard against internal commotions, an invincible power to shield a country against its external enemies. The soil must be protected by its owners. This description includes all the people, because all have an equal right to acquire and possess fee-simple estates. Impressed with these sentiments, the militia shall have my unceasing attention throughout the year.

“Peace with all the world is the great object of our national councils ; yet, if we would maintain so invaluable a blessing, we must be prepared to meet every hostile aggression, to repel every invading insult. A dependence on any other power for assistance will, finally, involve us in difficulties from which we cannot extricate ourselves without great expense and danger. A treaty of alliance must open a wide door to the influence of a foreign nation, and weaken the natural pillars of our national independence. Europe, as the illustrious Washington has told us, ‘has a set of primary interests, which, to us, have none, or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns.’ These cautious sentiments have been carefully adopted by the present president. From the wisdom, firmness and moderation of his measures, under the favor of God, we remain the quiet spectators of those wasting wars, which the situation of Europeans may have rendered expedient or necessary amongst themselves, but by which they are deluged in blood, and oppressed with expenses. Should a suitable proportion of our militia, in the United States, be trained to a proper degree of discipline, and be properly armed, though the first column of an invading enemy might not be instantly repelled, yet the decisive

appearance of victory would be soon exhibited on the standard of our union. It is true that the art of war, like other arts, is to be most perfectly learned from practice and experience; but this is a bloody and an expensive method of acquiring knowledge. In a nation where it is not received as an established truth that war is the natural state of man; in a country where no invasion is to be expected but from the error or rashness, not from the interest, of a foreign power, the art of war may be sufficiently cultivated, at moderate expense, by military schools and otherwise, in time of peace. Each state in the nation has the same interest in the discipline of the militia of the others as it has in that of its own; and, therefore, there can be no impropriety in contemplating this as a subject of national concernment. Whether you, gentlemen, will conceive it to be your duty to use your influence with Congress, on an affair of such magnitude, as far as it shall comport with the national and state constitutions; or whether you will turn your attention to the militia of your own state alone, I cheerfully submit to your wisdom; but this I venture to affirm, that neglect or delay in this business is incompatible with the safety of the country.

“No foreign power will dare to invade us, in a project of conquest, unless the United States, like the ancient republics, by controversies and animosities among themselves, shall furnish their enemies with the hopes as well as the means of success. To preserve a union of interest and sentiment so absolutely necessary to our existence as a nation, jealousies are to be laid aside, charity cherished, and a reciprocity of affection and civility exhibited. All the states must be the country of the citizens of each, and each state the country of all. Our national union, glowing on the public opinion, is the best defence of our sovereignty; and those who would shock it there, would sever the root from whence the tree of liberty draws, in copious streams, its principal nourishment. The chief magistrate of the nation,

being an elective officer, the voice of the majority, taken according to the forms of the constitution, must be decisive in the choice : it is the voice of all. To treat that election with disrespect, is to treat the constitution with contempt. Nothing can tend more to derogate from the respect due to us as a nation, than an appearance of uneasiness and dissatisfaction at the forms and principles of our own government.

“The great improvement in agriculture, the increase of commerce, and the encouragement of the arts in our country, furnish the most satisfactory proofs of the perfection of our political institutions. But the path of public as well as private prosperity is to be trodden with care. Governments depending for their execution, in so great a measure, upon the will of the governed, frequently expressed by their suffrages, demand for their preservation great intelligence in the body of the people. To maintain this our institution of town schools is admirably adapted. These, with the academies and colleges, are rendered indispensable by the nature of our government, and claim the constant attention of the legislature for their support and encouragement. The sentiments in regard to public worship, piety, religion and morality, interwoven with the constitution of the commonwealth, so far as we have a right to decide, have had a great influence on the people. We observe, with great pleasure, the erection of edifices for public worship of various denominations in Christianity; teachers everywhere settled and supported, and public devotion generally attended upon. These circumstances, under our established form of government, which excludes all persecution and intolerance on principles of religion and modes of worship, give to our state a very honorable appearance in the view of the enlightened part of the world. The principles and precepts of the gospel, if they are attended to and improved for religious and moral purposes *only*, will always make good men; and good men

can never be bad citizens. Upon the literary and religious institutions of the state our happiness as a people essentially depends; and I shall rejoice in seeing the legislature attentive to their encouragement and support, while, at the same time, that freedom of opinion and those rights of conscience, which are solemnly recognized in the constitution, are sacredly maintained.

“Government, in its nature, is a concentration of public opinion to certain forms of public rule. This may be maintained in a despotism by terror; but in a republic it must be supported by an attachment of the people to their country by public virtue. To produce this attachment the powers of the government must be exerted to give equal advantage to all its subjects; not to create wealth or exclusive privileges to any, but in securing to all, respectively, as far as it can be done by general laws well executed, the enjoyment of the various gifts which God bestows upon them. For, to use the language of our declaration of rights, ‘no man, or corporation, or association of men, have any other title to obtain advantages distinct from those of all the community, than what arises from the consideration of services rendered to the public.’ Where the laws secure to every man the same privileges to acquire and hold property, the wish to accumulate wealth, by fair means and honest industry, is inseparable from patriotism. Enterprise and industry are in the class of public virtues, because they are the unfailing source of wealth to a nation.

“A respect to the civil authority, a correct regard to the rights of others, and a ready obedience to the laws, confer on a people a dignity of character, which is intimately blended with the social virtues, and habitually becomes the strength of a civil community. Should any one be daring enough to suggest the idea that the people of Massachusetts are not, in the enlightened situation God has bestowed upon them, under the advantages they are

avored with, and the habits acquired from the manner of their education, competent to the support of a free government, by their suffrages, frequently exercised, such person ought to be restrained as a dangerous incendiary; because it is as essentially wrong to speak as to act treason. Every citizen has an unalienable right to express his opinion upon the administration of the government and the conduct of his rulers. But there are certain primary principles, which constitute the leading, essential, distinguishing features of an elective republic. These are to be treated with a solemn reverence and supported by a religious respect.

"I embrace this opportunity to express the sense I have of the honor done me by my fellow-citizens, and to assure them of my firm attachment to the principles of the commonwealth. They may rely, with safety, that it is my determination to exert myself, uniformly, to maintain the dignity and faith of this state, and to strengthen and consolidate the national union, on the principles of the national government. At the same time, I assure you, gentlemen, that, on my part, nothing shall be omitted which will render this session pleasant to you, and beneficial to your constituents."

According to a custom, adopted from the parliamentary usage of England, but which was abandoned in Massachusetts in 1825, after the death of Governor Eustis, the senate replied to this address by Aaron Hill, the house by Mr. Bacon. In the existing preponderance of republicans in both branches, their responses simply echoed the topics of the speech. In the former is this tribute to Judge Sullivan's past services: "The distinguished part which your excellency was called to act on the great theatre of our Revolution, the distinguished ability which you exhibited, and the correctness with which you performed the duties of the several stations in which you have been placed under our government, as well as the assurances you now make, leave us no reason to doubt that your administration

will be calculated to maintain the dignity and honor of the state, and to strengthen the Union on the principles of the national compact."

Prior to 1831, the civil year for Massachusetts, as provided by its constitution, commenced not upon the first Wednesday of January, as at present, but on the last Wednesday of May. On that day the General Court assembled to organize the government; but usually postponed its more important duties of legislation to its winter session. But now, under the auspices of a new administration, they remained together twenty days, and several important measures were proposed, some of which were reported and acted upon before its adjournment; others held under advisement during the recess.

If the federalists, during their long control of state affairs, had been obnoxious to reproach for their rigid proscription of all unwilling to identify themselves with their policy, it could not be denied that their legislation had been generally judicious. It was still not unnatural that the republicans, in succeeding to their power, should entertain some notions of their own as to what should be the law. Some of their projects, recognized by both parties as improvements, were at once permanently adopted; others passed into laws, which were repealed under Governor Gore, to be again reënacted under Governor Gerry. The greater number, and among them the more important, were defeated, as we find it subsequently alleged, by the politic management of the minority. Several measures, which at this time originated with the republicans, after long intervals, commended themselves to general approbation, and received the sanction of the federalists when again in power; while many more were adopted long after both federalist and republican had ceased to designate contending parties.

In a special message, on the fourth of June, the governor suggested the expediency of restoring the law of

entails to the condition in which it had been first placed, after the adoption of our republican institutions. By the act of March, 1792, tenants-in-tail were enabled to convey an absolute estate in fee-simple, and entailed estates, taken in execution for debt, passed free from the limitations. Under the federalist rule, in February, 1805, it had been enacted that no deed of an estate, entailed, should create a fee-simple, unless the tenant in remainder should join in the conveyance. The latter being often a *feme covert* or an infant, the free transfer of real property, always of great importance in a commercial community, was thus embarrassed. Accumulation of landed estates in individuals or families, beyond what naturally results from the adopted rule of inheritance, he considered, as had indeed all the other commissioners for revising the jurisprudence of the state, as incompatible with the constitution, and inconsistent with the genius of republican principles. His recommendation was not adopted at the time, but, by the revised statutes, tenants-in-tail are now permitted to convey in fee-simple.

In compliance with suggestions made in the address, the general arrangements and powers of the state judiciary were submitted to the consideration of a committee, of which the eminent jurist, Joseph Story, then near the commencement of his distinguished career, was chairman, and Whitman and Bangs his associates. They were instructed to report to the next session such alterations as they should conclude "conducive to the interest and happiness of the commonwealth." Equity powers, to be lodged in the existing tribunals, or vested in a separate court of chancery, were also to be subject for their deliberations.

One great evil in our original judicial system was a multiplication of courts and judges, far beyond the requirements of the community. And no part of it was more obnoxious to complaint than the county courts of general sessions, each composed of all the justices of the peace in

their respective counties. These courts, a part of English polity derived to us by inheritance, but first established under the state constitution by statute, in 1782, had been, by that of 1803, shorn of all their criminal jurisdiction, and restricted in their functions to the supervision of public buildings, roads and other county interests. This change had created discontent among an influential class, who formed these tribunals and had been accustomed to the ancient arrangement; and one of the few acts of a public nature, passed during the June session, restored to them most of their former powers. It however limited the number of judges to one chief, and from two to six associates in the respective counties, according to their population. The act, either in its original draft or from amendments, was open to objections pointed out by the governor in a message the ensuing session; and another act then changed the title of these courts to Courts of Sessions; and criminal and other cases entitled to jury trials were again restored to the common pleas. Both these acts were virtually repealed in June, 1809, under Governor Gore, to be revived in 1811, under Governor Gerry; and the sessions were finally abolished, except for Suffolk, Dukes and Nantucket, in 1813, and for Suffolk in 1821; their duties at the present day being performed by county commissioners.

By another special communication the governor suggested that the attorneys of the commonwealth in the several counties should be appointed by the executive instead of according to the old practice annually, or oftener, by the county courts. He thought there was an incongruity in public advocates being selected by the courts before which they were to act, and in their being dependent for their offices upon the will of the judges. The state, he urged, should appoint its own counsel, and have a control over its own advocates. He also recommended that no attorney or solicitor of the commonwealth should be per-

mitted to receive either gratuity or reward from any prosecutor or other persons in criminal prosecutions, or directly or indirectly be of counsel for any party in a civil action depending on the same facts, or connected with any criminal process. The government, he said, had as great an interest in the acquittal of the innocent as in the conviction of the guilty; and the attorney of the commonwealth before the grand jury and in the court should be as disinterested and impartial as the judge who tried the issue. A statute to this effect was passed in June, 1807, but repealed in 1809 by the federalists; and was again re-enacted, in 1811, by the republicans. The principle recommended has been since respected in the appointment of county-attorneys.

It must be reluctantly confessed that the temper evinced in these repeated vacillations was not to the credit of the state; but it would be great injustice to consider them a fair example of her legislation. If frequent changes in the law would seem an essential characteristic of popular institutions, they have resulted in the past experience of Massachusetts far more from over-cagerness to perfect, than from any spirit of party.

Besides this renovation of the judiciary upon a more economical and efficient basis, other important subjects were taken into deliberation; and among them that providing for the support of religious institutions and public worship. By former laws all the inhabitants were taxed in their several parishes for the maintenance of the settled ministers. If there chanced to be none of their own persuasion in the town, many were compelled to contribute to the support of clergymen with whose particular tenets their own were often at variance. It was now proposed that those who dissented from the faith of the church already established in any town should be exempt from any liability to contribution for its expenses. The religious liberty bill, as it was called, was defeated by a vote of one hundred and

twenty-seven to one hundred and two the succeeding session, and the voluntary principle only adopted in 1833, by an amendment to the constitution.

The probate laws; the statutes for the settlement, maintenance and employment of the poor; a provision to secure to mechanics a lien upon buildings for their bills of construction; general regulations for roads, turnpikes, canals, banks, licensed houses, insurance offices and manufacturing corporations; penalties on banks of five per cent. a day for non-payment of specie on demand; the discharge of poor prisoners confined for costs after expiration of sentence; the salaries of public officers, and fee bill; the payment of the members of the court out of the state treasury for their attendance after twenty days, as previously regulated; plans for a land office for the sale of the lands in the district; and a loan of five thousand dollars to Mr. Grout for establishing lines of telegraphs throughout the commonwealth, by which he professed to be able to communicate messages eighty miles in two minutes, were all discussed in debate, referred to the next court or otherwise disposed of.

Familiar, from constantly traversing the district on his circuits, with the wants of Maine, where he had been born and long resided, and whose vote had largely contributed to his election, the governor, according to tradition, proposed, and eventually secured, the adoption of the Betterment Law, as it was called. William King, of Portland, brother of Rufus King, is entitled to the credit of suggesting some of its most valuable provisions, and of having carried it through the legislature. A large portion of the eastern country belonged to large proprietors under ancient grants and Indian deeds; and poor settlers, commonly called squatters, were, in many cases, ejected by legal process from lands they had long occupied, and frequently where they had made expensive improvements. Many of these large tracts were in litigation, and numbers

of well-disposed inhabitants had purchased what were supposed good titles, but which proved to be worthless. The value, consisting of the expenses of clearing, fences and buildings, this new law, of which more will be said in a following chapter, compelled the actual owner to pay for all improvements or betterments, where the tenant, or those under whom he claimed, had been in possession for six years, or else permit the tenant to retain the land upon payment of its original value unimproved.

In another special communication, the governor recommended to the legislature to urge upon the general government the importance of ascertaining and definitively marking the north-eastern boundary of the state, from the sources of the St. Croix, as fixed in 1798, to the Highlands, mentioned in the treaty of peace. Provision had been made in the rejected treaty of the preceding December, to settle the question by commission, and it was now again subject of negotiation in London. A resolve was passed at his suggestion authorizing him to impress the necessity of an early settlement of the controversy upon the national administration; but the disturbed relations between the two countries prevented anything being accomplished.

A favorite scheme of the republicans was a bank of twenty millions, to be called the State Bank, of which one fourth was to be subscribed by the state, the rest by individuals, but upon a plan which should allow all the inhabitants to have the option of becoming interested in its stock. The existing banks were to be invited to merge their capital in the new corporation, which, in time, it was proposed should become, with its branches established in the several principal centres of trade, the only banking institution of the state. This plan was frequently under debate during this and the following sessions, but was easily killed by amendments. In 1811 a bank of the same name was chartered, with three millions of capital, and restricted to the issue of bills over five dollars. This

restriction was subsequently taken off, and its capital reduced.

Upon the petition of Benjamin Hitchburn and others, directors of the Mississippi Land Company, a resolve was passed requesting the governor to memorialize Congress upon the subject of the Georgia lands. Accordingly he transmitted to our delegation a memorial, which, when read in Congress the following winter, provoked a most angry debate. Nothing was at that time accomplished; but several years later some slight indemnity was granted by Congress to the claimants, who, however fraudulent the original purchase from Georgia might have been, had themselves purchased in good faith.

Other matter under consideration during the session, was the vote of the inhabitants of Maine against its proposed separation from Massachusetts and erection into a state by itself. The vote cast was not large, but of twelve thousand seven hundred and seventy-four, nine thousand four hundred and four were opposed to the change.

A question, interesting to the military, and which for several years occupied considerable space in the newspapers, from its having directed attention to the importance of revising the militia laws, deserves passing notice. The federal constitution vested in Congress power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions; for their organization, arming and discipline; and for their government when employed for the above purposes; but left to the states the appointment of their officers, and of training them according to such regulations as Congress might prescribe. Congress, in 1792, enacted that the militia should be arranged in divisions, brigades, regiments, battalions and companies, the three first to be numbered, the officers to take rank according to the date of their respective commissions.

By the Massachusetts militia law of June, 1793, this last rule had been qualified so that where two officers of the same grade held commissions of equal date, and no pretensions from any former commission decided their relative rank, it was to be determined by lot. In long periods of peace militia duties are apt to fall into disrepute, and these laws had not been always very carefully regarded at head-quarters, when the embarrassments arising from the case of Captain Joseph Loring, Jr., proved the necessity of their revision, and likewise of their more exact administration. Prior to 1798 there had existed much contention between the troops of Norfolk and Suffolk for the post of honor on the right. By a resolve of that year, Governor Sumner was authorized to organize the Suffolk companies into a legionary brigade, with various sub-legions. One of these, organized by Governor Strong, in 1803, was composed of the Washington Infantry, a volunteer company raised and uniformed by Captain Loring, mainly at his own expense, and whose commission bore date the fifteenth of August, 1803; of the Boston Light Infantry, raised by Captain Henry Sargent, of which Captain Davis, chosen in June, 1804, received at that time a commission as commander, but who had previously held one of the same rank, as captain of a ward company; and of the Winslow Blues, Captain Messenger, who had also held a commission of a ward company, but now acted as major by appointment, but without election or commission.

Loring was a good officer, but somewhat tenacious; and not content with some fancied neglect upon the part of the quarter-master-general, petitioned for redress to the governor and council. No other notice was taken of this complaint than an order to take away his commission, and substitute for it another, giving Davis precedence. Loring declined to give up his commission, published his grievances in a pamphlet, and was, in October, 1805, court-martialled and acquitted. He then tendered his resigna-

tion, but of this no notice was taken at head-quarters; and, considering himself a victim of persecution and political favoritism, he refused to obey Captain Davis as his superior officer, and was again arrested, in October, 1806, and by a court selected, not detailed as prescribed by law, sentenced to suspension for three years.

As he was a zealous republican, his wrongs were made frequent topic of discussion in their prints, and, upon his petition to the legislature, the committee advised the reversal of his sentence, on the ground that the governor had no right to change his commission without his consent, and that the court which had tried and condemned him was not properly detailed. Their report was accepted in the house by a vote of ninety-four to thirty. Considering it a party triumph, on the twenty-fifth of June, Loring marched his company to the house of the governor, and, while paying their salute, seventeen guns were fired from Copp's Hill.

On the twelfth of the month, by virtue of his office, the governor presided over an interesting meeting of the overseers of the university. Some students displeased with the commons had been turbulent and in consequence expelled. A committee, of which Lincoln was chairman, reported a change of system, and that the expelled, upon promise of future obedience to the laws, should be restored. The last recommendation led to a prolonged debate, in which all the republican members argued for the recall of the students, and the federalists took the part of the college government. The vote was twenty-six to twenty-nine, and if three of the trustees had not voted, the question must have been decided by the casting vote of the governor.

As furnishing some insight into the political views of the republicans, as manifested in these schemes of legislation, we hope these particulars will not prove tedious. After passing forty-six statutes, most of them of a private nature, the court adjourned till the following January. The

journal of the house was printed for the year, as it had been before and during the Revolution, and up to the year 1785; but not since, until the four years prior to the present, when that of each day's proceedings in the house was printed for distribution to the members on the following morning.

CHAPTER VII.

ADMINISTRATION.

IMPORTANT as these proposed measures of domestic reform in reality were, public attention in Massachusetts was too exclusively engrossed with the great events transpiring in the cabinets and on the battle-fields of Europe, to pay them much heed. The vast projects of Napoleon, which appeared to aim at nothing less than universal dominion, had aroused England, his only unconquered antagonist, to stubborn resistance. Under the pressure of a crisis threatening, not her maritime supremacy alone, but her very existence as a sovereign state, she utterly disregarded the neutral rights of America, with whom she was still under professions of amity, and showed little respect for international law, which her own tribunals had greatly contributed to establish.

Often before, when war spread itself over Europe, this great code of political ethics had shared in the general disturbance. Designed to regulate the mutual obligations of independent powers, upon the basis of justice and Christian humanity, in war as well as in peace, it depended for its interpretation upon a few standard authorities susceptible of many constructions, and was more often appealed to by the weak than respected by the powerful. Continual infractions of its most generally recognized principles provoked the frequent reproach, discouraging to all who hoped for progressive civilization in national intercourse, that

its only constant rule was that might makes right. In 1704 the French government, finding it for its interest, condemned as prize all merchandise, the growth of an enemy's country, unless where carried by the neutral owner directly to his own port; and, in 1756, England introduced a new interpolation of her own, which she now still continued to assert, excluding neutrals in war from the ports not open to them in peace.

When France, by the execution of her unfortunate monarch, not only shook the thrones, but endangered the social order and security, of Europe, the other five great powers, regarding her as an outlaw, determined to exclude her from all friendly intercourse. They entered into treaty stipulations to close their harbors to her ships; prohibited the exportation to her ports, from their respective countries, of all military and naval stores and provisions, and agreed to prevent neutrals, where they could, from protecting French property. From this period till the Bourbons were restored, English orders and French decrees, with every form of arbitrary regulation that could cripple the foe or distress the neutral, followed in quick succession. As each party justified its deviations from public law and the established rules of civilized warfare upon plea of provocation from the other, it would be difficult, and it is not important, to decide which was most in fault.

The United States, for not inclining to unite with the one belligerent in opposing the British claim to maritime supremacy, with the other in what she deemed a sacred crusade against the evident designs of France, first to consolidate Europe and then the world into a single despotism, received from either but little more forbearance than if an open enemy. Napoleon, indeed, declared that there should be no neutrals. It was from no more friendly sentiments towards this country, or higher standard of political integrity, but that her marine was more limited, and her

colonies unimportant, that we came less often in collision, upon the high seas, with France than with her rival. When opportunity offered, her cruisers were equally overbearing and unscrupulous. But the vast naval power of England, with its eight hundred ships, commanded all the great thoroughfares of trade; and, under irritation from the supposed bias of President Jefferson and his cabinet for her antagonists, American vessels were subjected by her to incessant humiliations and outrage.

Placed, moreover, as we were, between the Canadas and her West India colonies, of whose allegiance, in that period of political convulsion, she could never feel entirely secure, held, through our pernicious example, responsible for all the existing calamities, and, more than all, in the enjoyment of commercial advantages which excited her jealousy, and were prejudicial to her trade, her antipathies, whether measured by injuries or insults, savored of more than fraternal bitterness,—were unforgetting, unrelenting. For no benefit possibly to be derived from seizing American sailors from defenceless merchantmen, under pretence that they were her subjects, was it worth her while to pursue a practice opposed to every maxim of justice and humanity. From identity of race and of language there was nothing to indicate nationality, and many thousands of our citizens, with families dependent upon their earnings for support, were torn from beneath our flag, and melted away in her devastating wars. Could she contemplate with indifference vessels, thus crippled, going everywhere to wreck, these men, forced reluctantly into her quarrels, added no strength to her fleets. Not one in twenty of the unfortunate victims could be proved British subjects, while, after unquestionable proof of American citizenship of the greater proportion of the rest, no redress nor reparation was to be obtained. We were willing, for the sake of peace and good-fellowship, to make every reasonable concession; indeed, the treaty of the preceding December,

rejected by Jefferson, apart from its *rider*, had been satisfactory in every point but this. Still, she continued obdurate, and persisted in enforcing a groundless pretension, alike unwise and inhuman, rather than submit to which herself she would have sunk every ship in the ocean.

Blockades by proclamation, without effective fleets to enforce, were directly at variance with the plainest maxims of maritime law; yet, in the spring of 1806, Great Britain had declared the continent, for nearly a thousand miles of its shores, from Brest to the mouths of the Elbe, sealed to neutrals by this paper pretension. With a view to retaliate, Napoleon, after conquering Prussia at Jena, issued, on the twenty-first of November, 1806, his celebrated Berlin decree, in which, after enumerating seven distinct British deviations from international law, he declared all her ports blockaded, excluded from French mails all English letters, ordered every Englishman in the French dominions to be arrested as a prisoner of war,* and pronounced all property belonging to the English, or coming from their factories or colonies, and all neutral vessels touching at their ports, as lawful prize. Not to be outdone, upon the seventh of January following, the King of England subjected to condemnation all neutrals trading between ports in possession of France or her allies, or from which English vessels were excluded.

* A relative of the writer, at that time in Lombardy, had expressed his opinions freely upon political topics, and, while travelling near Milan, his carriage was stopped by government officials, who arrested him as an Englishman. He was sent to Paris, and imprisoned in the Temple. Here he remained for some weeks, when, by a fortunate mistake, some of his clothes were put into the wrong basket, by his laundress, and sent to his friend, Mr. Irving, by whom she was also employed. Mr. Irving, observing the mark, learned, upon inquiry, that they belonged to a prisoner in the Temple; and, opening a correspondence through the laundress, by his generous exertions, and his influence with the proper authorities, was soon able to prove the prisoner an American, and to procure his release. Meanwhile, his servant, who had been permitted to go free, had returned to this country, and, by his account of the arrest, created much anxiety and consternation among the friends and family of his master.

Notwithstanding these vexatious encroachments upon the rights of neutrality, American vessels had been for many years the carriers of Europe, and the community upon the seaboard, enriched by enormous freights and profits, patiently bore its occasional losses from illegal spoliations and detentions. If not wholly insensible to wrong, the national resources were supposed to be inadequate to effectual resentment; and, submitting to what they could not prevent, but might aggravate by resistance, and what experience taught them was the usual fate of the feeble, they counted their gains and shut their eyes to the dishonor. Supineness but invited aggression, and, a warlike spirit being the prevalent temper of the times, this backwardness to vindicate unquestionable rights lowered the national character in the general estimation, and exposed us to additional indignities.

Would we explain this degeneracy of a people naturally courageous and warlike, their condition and relations to other powers should not be overlooked. Without armaments, with scanty revenues, and nearly seventy millions of debt; easily assailed, from the ocean, along the Mississippi or the lakes, by powerful fleets, veterans from Europe, or Indian tribes; with treason and lawless combinations, defying authority, stalking abroad through the land, but half revealed in the trial of Aaron Burr and his confederates then going on; and with many among us who loved England and would have gladly returned to her allegiance; five millions of people widely distributed over vast areas of country could well, without loss of honor, decline a single-handed contest either with the conqueror of the European continent, or the mistress of the seas. Alone republican, our institutions were an eyesore to monarchs. The destinies of Napoleon it was impossible to predict. A chance ball, an unexpected reverse, might shatter the fabric created by his wonderful triumphs, and which possessed no elements of consolidation. Should we plunge

into hostilities with England, and his downfall come in aid of our enemies, we might be worsted in the conflict, and, our means exhausted, our country overrun, forced back into a state of colonial vassalage. These were the views of Jefferson and his supporters, and were surely entitled to respect. . If combined Europe accomplished the imperial overthrow, when we had at last been driven to war, England, on her part, had then become too much exhausted, by her gigantic exertions, not to be disposed to conciliate.

Notwithstanding, however, this meek and pacific policy, the administration, in order that England, by its loss, might realize the value of our trade, following to some extent her own example, resorted to a system of commercial restrictions. Congress prohibited the importation of her goods, and commercial intercourse generally with her and with France. If detrimental to them, this was so also to us, yet not without some good results; for Virginia and Pennsylvania began to make their own cloths. Connected with the recent decrees and orders, these regulations struck a death-blow at important branches of American commerce. They created consternation among the merchants, and a growing sense that war, now that no advantages were to be reaped from neutrality, was alike demanded by the national honor and its true interests.

Public sentiment had already become sufficiently exasperated from these causes, when, at the end of May, arrived the intelligence that Captain Whitby, of the *Leander*, court-martialled at Plymouth for the outrage of the preceding year, had been honorably acquitted. Ordered by Captain Beresford, of the *Cambrian*, to cruise off New York to procure the latest news from England, he had endeavored to speak American vessels entering or leaving that port; but, from the frequent violation of their rights, and the injurious treatment they had experienced in the impressment of their seamen, our vessels naturally avoided all

intercourse upon the seas with British cruisers. Irritated by this unwillingness to obey his signal-gun, Whitby, on the sixth of June, had fired into the sloop *Richard*, close by the light, and killed John Pierce, brother of the captain and owner, while standing at the wheel. Whitby, it was rumored, had not only been acquitted, but promoted to the command of a ship-of-the-line.

Thirty days later, tidings reached the north of an event, in comparison with which all previous indignities offered to our flag appeared unimportant. The frigate *Chesapeake*, forty-four, had been fitting out at Norfolk for the Mediterranean. Orders were given to Commodore Barron, her commander, to enlist no deserters. But, among those who offered and were accepted for the cruise, were five men, Richard Hubert, Henry Saunders, Jenkin Ratford, George North and William Hill, who, on the preceding seventh of March, while belonging to the British sloop-of-war *Halifax*, had risen upon their officers, when engaged in weighing anchor, and, seizing the boat, had gained the American shore. Their commander, Lord James Townshend, demanded their surrender from Lieutenant Sinclair, the recruiting officer; the British consul applied to the mayor of Norfolk, and the minister at Washington, Mr. Erskine, represented the case to the president. Inquiries were instituted, but, no satisfactory proof of their identity being offered, these demands were all alike unavailing.

On the twenty-third of June the *Chesapeake* sailed, and, approaching the English squadron, then at anchor in Lynnhaven Bay, the *Leopard*, Captain Humphreys, came towards her with the apparent design of making some communication. Under the impression that the object was to send letters to Europe, the *Chesapeake* was hove to, when a boat boarded her from the *Leopard*, with a written proposition, demanding, under orders from Admiral Berkeley, permission to search for deserters, offering the same privilege in return to the American commander. This he

declined on the ground that his instructions were not to permit his crew to be mustered by any one but himself. No sooner had his answer reached the deck of the Leopard, than successive broadsides were poured into the American frigate, killing six men, and wounding twenty-one. Barron had directed Captain Gordon to call his men to quarters ; but the ship was in no fighting condition, and one gun alone was fired, and that with a coal from the galley. Finding resistance useless, as the Leopard was more heavily armed and in full preparation, the commodore struck his flag, to the great indignation of his officers, and amid the hisses of his crew. The English retained possession of the Chesapeake from two to three hours. Four of the five men demanded had previously deserted ; but Ratford, who had enlisted under the name of John Wilson, was found concealed in the coal-hole. Three others, colored seamen, all Americans, who, in February, 1806, had deserted from the frigate *Melampus*, in Hampton Roads, and who, according to their statement, not fully borne out by the evidence, had been impressed from the American vessel *Neptune*, in the Bay of Biscay, were, with Ratford, taken to Halifax. Ratford was subsequently executed ; but the deserters from the *Melampus*, John Strachan and William Ware, of Maryland, and Daniel Martin, born in Bonaire, sentenced each to five hundred lashes, were pardoned on condition of entering the English service.

Barron was tried for not fighting his ship by a court-martial, over which Commodore Decatur presided, and was suspended from the service for five years. In the excitement which grew out of the affair there was much reproach and recrimination. A duel between Captain Gordon and the surgeon was without serious result ; but, in another, thirteen years afterwards, on the twenty-second of March, 1820, Barron killed Decatur, who had then recently made animadversions upon his conduct. To prevent such outrages for the future, President Jefferson, on the second of

July, issued a proclamation, interdicting British armed vessels from the harbors and waters of the United States ; prohibiting the citizens from furnishing them with supplies, or having any intercourse with them, under legal penalties ; and all officers, civil and military, were required to aid in executing these orders, except in the case of vessels in distress or bearing dispatches. Under a law of Congress, passed the twenty-fourth of February, 1807, he called upon the states for their respective quotas of one hundred thousand men ; the proportion of Massachusetts being eleven thousand and seventy-five.

The festivities of the national birthday, on the fourth of July, which had been prepared in Boston upon a scale of more than ordinary brilliancy, were deeply colored by these startling events. Coming immediately after the rejection of the recent treaty, and the acquittal of Captain Whitby, they seemed to indicate a settled purpose on the part of Great Britain to provoke hostilities. The state authorities, with a numerous military escort, the arrangement coinciding in many particulars with those made by Sullivan himself, as chairman of the legislative committee for the first celebration in 1783, and as established by resolve of 1786, repaired to Brattle-street meeting-house, where the youthful pastor, Mr. Buckminster, " led their devotions in thanksgivings to the great Ruler of all events for his goodness in establishing the independence of the states, and in prayers, of great fervor and earnestness, appropriate to the peculiar circumstances of the occasion." A patriotic address was made by Dr. Baldwin ; and, after returning to the state-house and partaking of a collation, another procession of the civic authorities was formed and proceeded to the Old South, to hear an oration from Mr. Thacher. There were other orations and the usual number of public dinners, the governor entertaining a distinguished company at his own house. A general feeling of indignant resentment at the recent outrage pervaded all parties and classes ; and the toasts and

speeches, ardent and patriotic, testified a general readiness to meet the emergency as the national honor and independence might demand. When greatly excited the popular mind rarely reasons accurately as to events, and hope is apt to mislead the judgment. If many were sanguine that amends would be prompt and ample, and the calamities of war be averted, the general belief was that it was inevitable, and would be immediate; yet the prospect created no alarm.

On the tenth of the same month a numerous assemblage of the citizens of Boston and the neighboring towns, over which Elbridge Gerry presided, filled the Doric hall of the state-house, and crowded about its approaches; and, on the sixteenth, another gathered at Faneuil Hall, of which John C. Jones was the moderator. The speeches and resolutions were animated by a commendable spirit, and expressed a resolute determination to resort to arms unless reparation were made for the past and security given for the future. Under menace of attack from without, party feelings were laid aside, and federalists and republicans were alike represented on the committees, and unanimous that our maritime rights should be vindicated, whatever were to be the cost.

The policy of Jefferson was rigid economy; and, on the faith that it required two to make a quarrel, he had endeavored to keep free from hostile complication, by avoiding the appearance of defence or even preparation. But it was sufficiently understood that, if Great Britain secretly determined to force us into a war, her attack would be sudden and vigorous. Such a bombardment as that which, two months later, laid Copenhagen in ruins, appeared then more likely to be our fate than hers. As, in case of surprise, the central administration had neither fleets, armies nor fortifications, of any avail, to repel it, the requisite arrangements for meeting the first brunt of the conflict devolved on the state governments.

In Massachusetts the executive suffered no time to be lost in taking due measures of precaution. The state shores, seven hundred miles in extent, dotted with wealthy seaports and fringed with a thriving population engaged in the fisheries and in commerce, were without other defences than some few scattered lines and batteries, thrown up during the Revolution, and dismantled since the peace. The military force of the state numbered sixty thousand men, poorly equipped, and, with some inconsiderable exceptions, by no means efficiently disciplined. The artillery consisted of about one hundred and seventy cannon, of different calibre, and the cavalry were neither well mounted nor well trained. The whole were divided into ten divisions, but only once in the year had they any opportunity of concerted action, and then but in brigades. Efforts were immediately made to animate them, in view of the impending crisis, with patriotic zeal to perfect themselves in their drill and evolutions, and to acquire the necessary qualifications of good soldiers.

After requesting the advice of his council as to what measures should be taken to enforce the proclamation of the president, on the fourteenth of July the governor issued instructions to the major-generals along the seaboard to keep three thousand men ready for immediate action, in aid of the *posse comitatus*. By general orders of the twenty-first, he directed that the respective quotas of the one hundred thousand, which had been called for by the president, should be detailed from the divisions. He visited the points most exposed to attack; and, on Wednesday the twenty-eighth, with Generals Lincoln, Eliot, Winslow and Donnison, Colonels Davis and Gardner, and Captain Freeman and other gentlemen, made a visit of inspection, in the revenue cutter, Captain Williams, to the islands in the inner and outer harbor of Boston, to ascertain the best sites for fortifications. On their passage down salutes were fired from the fort, and again upon their

return, when they went ashore, and the garrison paraded and went through their various evolutions and firings. On the thirty-first he addressed to General Dearborn, secretary at war, the following report of his proceedings:

“The president’s requisition upon the state of Massachusetts for eleven thousand and seventy-five men, as its quota of one hundred thousand, to be drafted from the militia, on the present emergency, is cheerfully complied with. The militia are very far from considering it a burden. There are many offers of entire independent companies; but I allow the detachments to proceed, and have issued general orders that the major-generals shall accept volunteer companies, and relieve the drafts in those parts of their divisions with which these companies are nearest in local connection. The orders direct that the companies, officers and privates, shall subscribe an enlistment, engaging to hold themselves armed and equipped, ready to march at a moment’s warning, and to continue in the public service six months, under the command of the president, after they shall arrive at the place of general rendezvous.

“The militia of this state are under a good arrangement; their organization may be considered as complete. Our artillery is full and well disciplined. We have not a competent number of cavalry, nor do we consider such corps, in this part of the nation, so useful as the infantry or artillery; besides, the expense, in our climate, is, in fact, a great burden on the privates of such corps.

“Besides the detachment of our quota, I have made a designation of four hundred men as a reënforcement of Fort Independence, in Boston harbor, upon the approach of an enemy. That, on a ship’s approaching, in contravention of the president’s proclamation, all confusion and disorder might be avoided, I have directed the major-generals of the three divisions which include our principal harbors, to have three thousand men designated, according to the exposure and importance of the harbors, with arms in-

spected, and ready to march, if called for, on an enemy's approach. We have a magazine in a place much exposed; I have directed a guard for that.

"Our people here appear to be firm in defence of their country. Some of them are too fond of war. Others are as zealous on the part of Great Britain; urging, in conversation and in the federal papers, the necessity of our submitting to her claims on the sea without reserve. This they do from consideration of her goodness and greatness; but, above all, from a dread they pretend to have of her adorable irresistibility. How long they are to be suffered in this way I know not. The federal papers, as their editors call them, are teeming, not only with productions in justification of the English aggressions, but with dangerous and abusive slander against our own government. What the view of the writers is cannot at present be discerned; but their productions wear a very serious aspect, and are totally incompatible with the independence of the country. This may be, and I believe is, done by a few partisans, who have always been inimical to our independence and devoted to the domination of Great Britain. The great body of the people, who are under the denomination of federalists, appear well attached to their country's honor and interest on the present interesting occasion.

"The public feelings are much agitated here, in regard to the neglected state of our harbors, more especially the important one of Boston. This town is situated on the sea, and, should hostilities continue between England and the United States, must become a primary object for her attention. The isthmus, on which the town stands, is loaded with wealth, which, if Great Britain adds us to the list of her enemies, must, in the present state of her finances, be of consequence to her; not only to support her own expense from the war, but to deprive us of such immense support, and to throw a helpless, destitute multitude on the arm of public charity, to destroy our banks and sub-

vert our medium of commerce. The danger to this town may be the result of one of two projects:

“The first may be, not an expedition for conquest, but for pillage and plunder. A small squadron, with a few troops, are to be dreaded, in such a case, in our present situation. The inner harbor is spread before the town, extending about two miles and a half down to an island which sustains Fort Independence, commonly called Castle Island. That fort claims all the appearance of defence which exists in the harbor. I made it a visit on the twenty-eighth. It is well commanded; and we cannot but lament that the assiduous and able gentleman who has the command, had not four hundred, instead of fifty-four men, in a military school where discipline is in so much perfection. The work on that fort is handsome, and has, no doubt, been very expensive; but the small company stationed there could not defend it against the force which might be landed from a frigate. There are only a few cannon mounted; they are of a calibre of thirty-two pounds and downwards. The carriages are bad, having been made originally of shaken bad wood, and they would very soon be shattered into a state of uselessness in a warm contest. This fort is on an island which forms the west side of the main ship-channel. On the other side is an eminence, called Governor’s Island; perhaps a line from the point of its height to the parade in Fort Independence would be not far from a mile, say seventeen hundred yards. The perpendicular from the termination of the upper or level line to the parade is forty-seven feet; this gives the eminence of Governor’s Island a complete command of Fort Independence. An enemy, having gained that height and formed a battery to support two twelve-pounders, have the fort in possession at once. Thus an expedition for pillage can be maintained at a small expense of an invading force.

“Should an attack of any enemy be on an expedition of conquest, their first object would be to gain possession of

these two islands, because that would give them the possession of the inner harbor for their ships, and of the town with its property for their troops. The town being on an isthmus, where the passage of entrance is very narrow and easily fortified, a few troops would answer for them to defend it with. Should we hold the possession of those islands, their army must disembark below, in the outer harbor, and march by land, where we could meet them in narrow defiles and critical passes, and finally oppose them from our fortification on the narrow neck leading to the town.

"I have been attended down the harbor by the general officers in and near the town of Boston, and was favored with the company of General Lincoln, under whose care fortifications were formerly raised in the harbor. There is but one opinion as to defending the town. All agree on Governor's Island for the principal fortress. A mere battery will not do. The fort must be such as to stand a considerable conflict against a reduction by assault; otherwise we sacrifice our troops placed in it, to none or very little purpose.

"In my former letter I took the liberty to ask to have some cannon, of eighteen pound calibre, which we have here, mounted on travelling carriages, at the public expense, and hinted that military gentlemen differed in their opinion as to the utility of them thus mounted. I am now satisfied that it is necessary to have them mounted in that way, to play on ships in the inner harbor, either from Dorchester Heights or from various parts of the town, where their shot may meet the shot thrown from the islands. A battery of two or three heavy guns at the navy-yard on Charlestown Point, will be necessary for the same end. I am sensible that the war department is crowded with applications of this nature; but Massachusetts is a principal limb of the nation; her capital pays a great revenue, and an attention from the national government is so obviously due to it, that no arguments are necessary."

Able writers, in the Centinel and other federal papers

of the commonwealth, as mentioned by Judge Sullivan in the foregoing letter, were busily employed, during the summer, in defence of the English government. Its violation of neutral rights was zealously vindicated; and, before it was known that the attack on the Chesapeake was without its sanction, they even went so far as to justify the search of armed vessels for deserters. The federal leaders inclined to peace from an erroneous impression that war was the settled purpose of the administration; a close alliance with France, considered unavoidable in the event of hostilities with England, they viewed with aversion; and, moreover among the most influential, were many wealthy merchants, who had ships upon the sea. If strenuous in their efforts to keep the peace, it was, doubtless, the part of wisdom. Little is gained by war but heavy taxes for the existing generation, burthensome debt for those that come after, distress and anxiety for the great body of the people, and glory undeserved for a few fortunate generals, which often proves prejudicial to liberty. Such arguments had been used by Sullivan himself in 1798, when the question agitated was war with France, and, now that his sentiments had apparently changed, extracts from his former writings were very fairly retorted upon him.

The articles in the federal papers, among the best of which were those signed *Pacificus*, were answered by *Marcellus* and other republican writers. Governor Sullivan did not consider himself precluded by his office from taking part in a controversy of such serious importance to the public interest. Frequent communications, under his well-known signatures of *Americanus* and *Plain Truth*, and others unmistakably from his pen, appeared in the *Essex Register* and *Boston Chronicle*, from which the following extracts may be interesting, as throwing light upon the existing state of public opinion. On the sixth appeared the following article in the *Register*:

"A crisis has arrived when we must, most probably,

submit to the insults of Britain, or be involved in the horrors of war. No American can hesitate a moment which to choose. War, with all its concomitant calamities, must certainly be preferred to the repeated insults and injuries we daily receive. At a period so interesting and important, a vigilant and scrutinizing eye should be cast on the vehicles of public information. It becomes us, at all times, to hold up to public execration those who league with the enemies of our country; and we have seen, with peculiar regret, sentiments avowed in the *Repertory* and *Boston Gazette*, vindicating measures which, we dare assert, no British ministerial paper will attempt to maintain, and which their government has conceded to be wrong. They repeatedly charge our government with duplicity; they assert that the president speaks peace, his paper, war; and we, with equal confidence, assert that the president, in his official communication, speaks a language perfectly coincident with the sentiments avowed in the national paper. The language is peace on honorable terms, but on no other. The ground on which the government means to take a stand is evidently this: If the British government yield the right of searching our vessels for their own subjects, in all cases whatsoever,—that principle from which all our injuries have been derived,—and make honorable amends for the late insults, they offer them the olive-branch; if not, our connection must be dissolved. All who read Mr. Madison's letter to Mr. Munroe must be convinced that this is the decisive point, and no one who reads the letter can doubt the correctness of the principle. He says, explicitly, 'if it is not conceded, your negotiation is at an end.' Should our government act as those papers dictate, should they declare war inevitable, call Congress immediately together and lay an embargo, the pirates of the ocean would immediately bankrupt every merchant on the continent, and drain the nation of the means of carrying on hostilities; but, by previously sending a special

message to Great Britain, we gain time for our shipping to return, we exhaust the cup of forbearance, and show to the world how unwillingly we appeal from the decision of reason to that of arms. Great Britain has seldom been disposed to do us justice, and, as we do not think that she is at present more than usually disposed to do it, we believe that she will not concede the right of search for her subjects. War will be the probable result, and it is the height of madness in our merchants to trust their vessels at sea for the present."

On the twentieth he writes the following disquisition upon the right of impressment, the actual issue between the two countries, and this is followed in the Chronicle by a satirical parallel between the arguments used by the revolutionary Tories and the apologists of the recent British aggressions:

"The labors of Pacificus and his anglo-American associates are of no consequence. The people of the United States are not deceived by their sophistry and insincerity. The United States are an independent, sovereign power; Great Britain is no more. To allow, for one day, that we are a grade below any power on earth, would be a voluntary relinquishment of our independence; it would give further claims to such power against us; and induce other nations to make the same, or similar, and other claims upon us. The question is, if it could consistently with our national existence be made a question, whether any power has a right, without our consent, to enter on board our ships, either public or private, to search for men or things? When such search is made, the vessel must be *infra præsidia* of the United States, that is, within our jurisdiction as a nation, as the Chesapeake was; on the high seas, the common highway of nations; in the port of a neutral; or within the jurisdiction of the power claiming such right. The two first only are necessary for our consideration in the discussion of this subject.

“As to the first, it is clear that Great Britain can have no pretext, from the custom or usage, or from the law or practice of nations, to enter our harbors against our consent, for any purpose whatever. It is true that, if their force is superior to ours, they can enter our ports, fire their broadsides on our vessels, or on our cities; but this will be an act of open war, and must be treated as such. The verbose gazette scribblers, in the English-Boston papers, with a wordy, incoherent and noisy eloquence, are endeavoring to maintain the enormous claim of England to exercise this right on the high seas. But, should they admit as fact what everybody knows to be true, that Great Britain has no greater right to the high seas than other nations, the cause is decided against them, and their pens must be still. The persons and property of the subjects of independent sovereign powers are under the legal control and under the protection of their governments. When the subject leaves the land, and traverses the ocean, that control is not abrogated, and how then can the protection cease? Crimes committed by the subject a thousand leagues from the land are punishable, according to the laws enacted in the state to which he owes allegiance, either by a capital or lesser punishment. Injuries done to him there, by his fellow-subjects, are to be redressed by the same power. From whom, then, shall he seek protection for his person and property, but from the state whose subject he is, to whom he owes allegiance and obedience?

“The question, then, is simply this: by what insignia, mark or sign of national privilege, is he to claim this important protection against the aggressions and insults of foreign nations? The common voice, expressed by the practice of nations, has established the principle that *the national flag* is the primary evidence of a right to a national protection. But this may be a false and deceitful sign; so may any other primary formal evidence, in any question

whatever, prove to be false or forged. But here the ship's papers * are to be resorted to, and there can, on an ordinary examination, be no room for a suspicion of fraud. The papers and flag are genuine, or the master and crew are pirates. But the claim here is for a right for a British ship to enter and search an American ship, acknowledged to be such, bearing the papers and flag of the American sovereign independent power, on the high seas.

"The search is to be for men supposed to have deserted from ships of the English navy; and the curious writers, who compile columns for the English papers printed in Boston, tell us that 'Admiral Berkeley is willing to allow us the same privilege.' The English do not agree that this right is reciprocal, but they exercise it by force on our ships, without and against our consent, and they will *allow* us to search their ships. The idea is not only deceptive and fallacious, but it is hypocritical and insidious. If we are both sovereign, independent nations, possessing the same equal sovereign rights, where does the word *allow* come from? We are as much above asking favors of them as they are of us.

"There is a controversy, and it must end in a war, or be settled by a treaty. Should we wage war, yet, unless that war shall be eternal, we must terminate it by a negotiation. This can be done now as well as after a war has injured both countries. We can never agree that the English empire shall man its navy by impressment of our citizens. They must promise to give no national power whatever to impress American citizens, and that, where done by mistake, they shall be given up, on a demand made by our ministers or consuls, on exhibition of proof. They must further agree that the flag of the United States is to be the *prima facie* evidence of a bottom of the United States, and that the people and property on board shall be sacredly protected from search and arrest. On our part, we ought

* During war.

to agree that our merchants or masters shall not encourage desertions from the British navy; that we will make laws and regulations, in order to prevent it; and that when such desertions shall happen we will, on the application of the English ministers or consuls, with proof, order them to be delivered up. This will contemplate both nations as sovereign, independent countries, and preserve the honor of both.

“The arguments used, under various signatures, in the Boston-British papers, are peculiarly insidious and deceitful. The argument of legality to search for an escaped felon, or for stolen goods, is abominably wicked. It is true that the house of a person, where a felon or stolen goods are concealed, may be searched. But this is to be done by what authority? Under the authority, not of the person who complains, but of the government which has the control and protection of the house and of its proprietor. This principle, by a plain analogy, shows that if the persons, who are in possession of American ships under American flags, shall injure the English nation, that nation must condescend to demand redress of us by its ministers and consuls, as of a sister sovereign power, and claim no right over us that we have not over them.”

In the event of war with England, our sole means of offence would have been confined to suspension of trade, confiscation of debts, privateering, and invasion of her colonies. It seemed more than probable that, as to the last, England would be on the alert and invade us. Should this be from the north-east, the point of attack would be within the state limits. The duty of protecting the frontier constitutionally devolved on the general government; but, without an army, it was manifest that the militia of the north would be its chief defenders. Governor Sullivan gave full attention to all these considerations, and was as active as his constitutional powers warranted in guarding

against every contingency. He well knew that whatever he did would be subjected to rigid scrutiny by his political opponents, but this had little influence in discouraging him from the course he thought reasonable and right.

With a view of concerting measures of coöperation in case of attack, in the month of September, accompanied by his wife and son, he visited his brother-in-law, John Langdon, then governor of New Hampshire. As he approached Portsmouth he was met by a numerous cavalcade, and the chief personages of the state and federal government, who escorted him to the house of Governor Langdon; and, during his stay, other honors were paid him, appropriate to his official character.

The autumn months were actively employed in military reviews and inspections. Field days were appointed for the respective divisions and brigades, and so distributed over the months of September, October and November, that the adjutant-general, and governor as commander-in-chief, might be present. As nearly all the male population between the ages of eighteen and forty-five were enrolled, and festal occasions were not frequent, the muster-day was an event, and attracted general attention. With the exception of the volunteer companies in the wealthier and more crowded neighborhoods, the soldiers wore their usual attire; but the uniform of the officers, field and staff, served to relieve the sombre appearance of the ranks. It being important that the troops should assemble and return the same day, the number collected at any one time rarely exceeded three thousand, and was usually much less.

In times of profound peace military parades are apt to be viewed but as idle and expensive pageants; but let the probability of war and invasion darken the horizon, and public opinion begins to appreciate the value of armed organization. It had not been previously customary for

the executive of the state to be present on the muster-field. Once in each year, usually in March, Governor Strong had addressed general orders, at some length, to the troops, urging upon them the importance of subordination and discipline; but little care had been taken to perfect either the officers or men in martial exercises. But, as a large British force had been ordered to Halifax, and the militia of the Canadas were being armed and organized, it seemed quite possible that their services would soon be in requisition to defend their firesides, and vigorous exertions were made to put them in a state of efficiency. During the summer more than ordinary attention had been paid to their drill, and the improvement displayed in the fall parades was subject of general remark and approbation.

With a natural taste and aptitude for everything connected with military matters, Sullivan, during the earlier stages of the Revolution, had been much employed in raising and organizing troops. After his services at Portland, in 1776, it will be perhaps remembered that the officers of the regiments raised in Maine had requested that he should be appointed their general. He had thus become conversant with whatever appertained to military life, when it was not a pomp or parade, but the path of danger, difficulty and heavy responsibility; and, now that the troubled state of our relations with England made it possible that hostile armaments might a second time descend upon our shores, he devoted himself with indefatigable ardor to his functions as commander-in-chief. He attended as many of the reviews as his other duties permitted, and took a lively interest in the evolutions and sham-fights. He strove to animate both soldiers and officers with patriotic ardor to meet the emergency, should hostilities occur, and to promote a proper pride and emulation to excel in all soldierly accomplishments. His efforts were untiring to render the adoption of some simple but inexpensive uni-

form throughout the line, from a conviction that it would generate more self-respect in the soldier, and a juster appreciation in the community of military institutions.

As a school of tactics, not much was to be accomplished by a single day's experience in the muster-field, and the annual encampments under the modern law form a judicious substitute. But the military reminiscences of actual service in the Revolution were then widely diffused throughout the land, and many ancient veterans, who had taken part in its combats, held commissions under the state. A prominent feature in the performances was an attempt to re-act famous battles of the past; and if the free use of gunpowder in some degree obscured the field of vision, it perhaps added to the value of these movements for a practical purpose.

These energetic efforts to prepare for the possibilities of war secured respect from all parties; and men of character and distinction attended the reviews. Among those present at Neponset was the ex-president, Mr. Adams, who, with other gentlemen, dined with the governor in his tent upon the field. Besides the addresses made to the officers on these days of review, the general orders, dated from the fields of West Cambridge, Wrentham, Neponset and other places, though brief, were earnest and eloquent, mingling praise with exhortation; and, appealing to generous sentiments, they were well calculated to inspire the men with ambition to do their duty as good soldiers. They clearly indicate a settled conviction that war was approaching, and seem appropriate to the times, which by all might well be considered critical, and to the character of those they were intended to influence.

It had been always the habit of Judge Sullivan to be much in the saddle, and his lameness made it important that he should be mounted on parade. He appeared on these occasions in full uniform, upon a powerful and handsome

charger, which he had used for two or three years for his daily exercise.*

Without any very wide departure from just standards of republican simplicity, or from that principle which lays at the foundation of all puritan institutions, both in church and state, of attaching importance to the inward significance rather than to external semblances, the forefathers of the commonwealth appreciated the propriety of some form and ceremonial as an appendage to authority. State anniversaries and festal occasions are for the general pleasure and benefit, and derive a principal charm from handsome uniforms and martial music. Where the magistracy take part in such celebrations, military escorts serve to lend dignity to official power, and to gratify spectators seeking to be amused. On commencement days at the university troops of cavalry escorted the governor to Cambridge.

Under provincial rule the Boston Cadets had been organized by Governor Shirley, in 1741, as a body-guard to the executive in state solemnities, and for some years before the Revolution they were commanded by Hancock. Disbanded by Gage, in 1774, many of their old members reorganized under Colonel Hitchburn, and did good service on Rhode Island in the campaign of 1778. They were re-chartered as a battalion, under Governor Bowdoin, in 1786, in the dark days of the insurrection, and have since

* Though spirited and full of action, this horse was gentle and docile ; and one cold winter day, when Judge Sullivan was about to mount for his usual ride, Dapple Gray put his foot upon the ice, and, taking it back, looked into his master's face with an expression which intimated, very unmistakably, that he wished to be corked. He was sent to the blacksmith, and, upon his return, another look, equally significant, expressed his thanks. He long survived his mimic battle-fields, in possession of a son of Judge Sullivan, and, several years after, was again used for military duty. Upon journeys into the country, Dapple often followed the carriage, and, a saddle being carried for the purpose, his owner was thus able to vary the pleasures of the road. In his old age, when he had ceased to be of value for saddle or for shafts, he was kindly cared for in return for his past services.

made themselves useful for escort duty at the capital. In 1807 their commander was Colonel Apthorp, and, upon their anniversary, on the nineteenth of October, Governor Sullivan, together with other guests, dined with the corps at Concert Hall.

On the twenty-sixth the Legionary Brigade, of seventeen hundred men, chiefly belonging to the capital, assembled on Boston Common, under command of General Winslow, their brigadier, and were reviewed by the governor and Major-General Eliot. As the troops were generally well equipped, and in handsome uniforms, they made a brilliant appearance; and their exercises, including the defence by the bayonet against cavalry, received much encomium. A French officer, however, of some professional character, who witnessed their manœuvres from the state-house, mocks a little, in the papers, at the absurdity of a combat between five-pound swords and fifteen-pound bayonets. The same gentleman, professing to be a judge of military art, and who, the preceding spring, through the same channel, had been very severe upon the general want of proper knowledge and discipline in the state militia, now admits their superiority to any troops he had seen not making war their vocation. He says, however, that, surprised at the extreme accuracy with which the Legion wheeled into line, he subsequently examined the ground, and, from marks of wheels upon the turf, was tempted to conjecture that this precaution had been adopted to make a movement, difficult even for veteran troops, more effective and imposing.

As nearly every civilized nation was then engaged in hostilities, it would have been unreasonable to suppose that this country would wholly escape participation. Any neglect or delay of proper precautions, while we were liable at any moment to attack, could not have been justified. How entirely sincere Sullivan was himself, in his belief of the importance of such preparation, is manifest from the following letter, of the seventh of November, to John

Quincy Adams: "On Tuesday last I made a visit to Quincy, and had a pleasant half-hour with President Adams. He appears to be in good health and spirits. I am of opinion that a war between the United States and Great Britain is unavoidable. Their claim of superiority over our ships and flag will not be relinquished. Should we submit to it, we must yield on some principle. There is none that can be suggested besides their supremacy on the ocean. Should we accede to that, why should we not become tributary for the privilege of traversing the sea? Should we yield to their claim of impressing our seamen, upon what idea can it be done excepting that of our not being entitled to that rank among the nations, and that respect to our flag, which are enjoyed by other powers? And why shall not the other powers maintain the same superiority over us? In short, there is no end to the mischiefs consequent on the admission of a wrong principle. The advocates for England, in this state, diminish in number, but increase proportionably in virulence. The greatest calamity incident to a war will be internal. The friends of Great Britain will not forsake her until they are compelled to do it."

These details have been presented to the reader from a belief that they will prove interesting. Without them no complete idea could be obtained of the state of political affairs or military condition of Massachusetts at the time, or the responsibilities devolving on the chief magistrate. The office was certainly no sinecure. Besides the cares and employments already mentioned, the list might be almost indefinitely extended. Constant indications of his conscientious devotion to official duty are to be found in the public press of the day, and much was doubtless accomplished of which no trace remains.

Among the subjects which claimed his attention was the preservation of the timber on the state lands in Maine. Contracts had been made, without even the pretension of

right, between the lumbermen at the eastward and the Penobscots, for this purpose ; and, on the first of October, the governor issued his proclamation, drawn up by the solicitor-general, Daniel Davis, to prevent it. On the sixteenth he appointed the annual thanksgiving for the twenty-sixth of November ; and the proclamation, though we have fresh ones every year, and often those that are better, may be interesting, after so long a period, by way of contrast :

“The almighty Creator and Governor of the universe is to be worshipped and adored by his rational creatures. The exercise of this duty is their highest privilege.

“Our pious ancestors, beholding with devotion and gratitude the daily expressions of his mercy towards them whilst they were surrounded with uncommon perils and dangers, consecrated one day, at the end of each year, for celebrating his praise and acknowledging his ordinary support in the favorable course of the seasons, as well as for rendering thanks for the extraordinary interpositions of his providence in their favor. This has been handed down as an ordinance from age to age, and our obligations, at the present day, are as great as have existed in former years upon the generations we succeed. I have therefore thought fit to appoint, and by and with the advice and consent of the council do appoint, Thursday, the twenty-sixth day of next November, to be observed as a day of public Thanksgiving and Praise, throughout this commonwealth.

“And I do earnestly recommend it to the ministers and people of the state, according to the pious and laudable example of their ancestors, to assemble themselves on that day at their usual places of public worship, and there devoutly and sincerely to acknowledge their dependence on the most high God for his creating goodness and sustaining mercies ; and there to thank and praise his high and holy name for all his benefits. More particularly

“That he has marked out the place of our habitation

where the gospel is enjoyed by all denominations of Christians, in the most perfect freedom of conscience, without persecution or restraint, every one having an equal right to worship God according to the dictates of his own reason.

“That he put it into the hearts of our ancestors, and has continued the laudable emulation in their posterity, to make literature and science the public concern, and the encouragement of the arts the peculiar care of the civil government.

“That he inspired a band of patriots, whose names will be ever dear to their country, with wisdom and firmness to declare the United States an independent nation; and the great body of the people with courage and magnanimity to maintain the important declaration.

“That he has given these states wisdom and prudence, not only to form a system of government for each state, but discretion to all the states to establish a general government, by which they are firmly united and known as a nation.

“That, under the wise and prudent administration of our president and rulers, those constitutions have been preserved to us without destruction or corruption.

“That, while the calamities of war have afflicted Europe, our president has been endowed with caution, wisdom and prudence, by which, under the superintendence of a kind providence, our neutral position has been preserved to us in the blessings of peace.

“That no epidemic contagious diseases have been allowed to distress or waste our country.

“That the earth has been made to yield her increase, by which plenty has crowned the year from the field; while our commerce and navigation have been attended with success and prosperity.

“I further exhort the good people of this commonwealth to express their gratitude by their munificence to the poor,

on an idea that we are all brethren, the children of one Parent, even of our Father who is in heaven; and from whose unmerited bounty we derive all our enjoyments.

“That to their gratitude they unite a true and sincere repentance for those sins by which we are rendered so unworthy of the favors daily received from our Supreme Benefactor.

“That they all unite ardently and sincerely to discourage intemperance and wickedness, and to encourage and promote piety, virtue, morality and religion, amongst citizens of every denomination.

“I recommend it to the people to refrain from all labor and recreation incompatible with the solemnity of the day.

“Given at the council-chamber, this sixteenth day of October, in the year of our Lord one thousand eight hundred and seven, and in the thirty-second year of the independence of the United States of America.”

Towards the close of the year his political friend and associate, Dr. Charles Jarvis, whose eloquence and patriotism were highly appreciated in Boston, as were also his amiable disposition and social qualities, died, at the age of fifty-nine; and, a few weeks later, another, with whom he had been, for many years, on terms of intimacy and constant intercourse, from their coöperation in the canal, Colonel Loammi Baldwin. The latter, at the time of his decease, was engaged in another project, for uniting Boston with Long Island Sound, by a canal from Weymouth to Taunton River.

During the month of December are to be found three long articles, signed *Americanus*, on questions connected with the points at issue between the two countries, in the *Essex Register and Chronicle*. In one of these he says:

“The proclamation of the King of Great Britain is now before the public. It is not in the least degree equivocal. It is a most outrageous declaration of war against the rights of all nations. After reading it no one can entertain an

idea of any connection with England, but those who are prepared to sacrifice the dearest rights of freemen, and own themselves the willing subjects of their sovereign lord, the defender of the faith.

“That man is born free, and has an undoubted right to choose his own country, no one will deny but the blind advocates of the divine rights of kings; and no country, that has any sense of national dignity, will suffer its citizens to be enslaved, under the pretence of their being subjects of Great Britain. The proclamation orders their captains to take all men who were born within the territories of the United Kingdoms, leaving it to the discretion of pirates and murderers, who are in want of men, to take all the crews from our ships, when they, under such wants and prejudices, may judge proper. Every man in the country must know that nature has placed no discriminating marks between us and the subjects of Great Britain, and that many of our native countrymen cannot be distinguished from the rudest inhabitants of Scotland and Ireland. Thus circumstanced, the wants of licentious commanders will be the measure of the safety of our seamen. If they have full crews, our fellow-citizens may escape; but, if they are in want of men, speaking the English language will be sufficient evidence to justify them in taking whole crews from our ships; and, when we add to this the impunity with which they escape after the most violent aggressions, with what safety can we navigate the ocean? Thus the British nation madly wages war with universal nature. They are at actual war with all languages but the English, and this proclamation is aimed exclusively at that. Any man on board our vessels, who speaks any language but our own, is to be taken as an enemy of war, and confined in their prison-ships; those who speak our language are to be presumed native subjects of the United Kingdoms, to be obliged to assist in plundering and enslaving their countrymen, and fighting

against their allies; in which latter case, if they are taken, they are liable to lose their lives as pirates.

“If Britain claims the right of search for seamen as well as property, a question naturally arises, why, in one case, they are tried before condemnation, and in the other are condemned by the captains of the ships, who are in want of crews, without a hearing. Is the value of liberty, and the preservation of our lives and limbs, of less value than a little paltry property? No; that is not the answer. The true reason is that the proportion of those that they can prove English subjects in a court of judicature is so small to the number taken, that it would defeat their object to go through the solemnities of a trial. The only justifiable manner of asserting this right, even allowing it to them, would defeat its own object, and they would give it up. But whilst they can confound Americans with Englishmen, and have English captains to act as judges, our countrymen must fill their fleets and fight their battles. Those who have the best proofs possible of their citizenship can hardly expect to return in less time than two years from captivity. It has been proved that not one in ten whom they have taken are British subjects.

“The most abominable principle in this proclamation is that naturalization shall be no protection. Almost all nations naturalize the subjects of others, and in no nation is naturalization so easy as in Great Britain. Yet, in the face of all this, they have ordered their captains to take our naturalized citizens who were born in the British dominions. Our government, we trust, will properly resent this indignity.

“We have admitted those who are naturalized to all the rights of American citizens; of which rights one of the most important is security from foreign violence. Our government cannot treat on such terms; if they do, our constitution and laws are a dead letter; they are annulled by a British proclamation, and we must submit to the new

law of nations, 'that power gives right,' as has been illustrated in Denmark and in this proclamation. Such submission would be subversive of every principle of our government."

A few days later he says: "Every citizen who feels interested in the welfare of his country must be sensible that we are verging to a very solemn crisis. The peace of a nation is not to be sported with. A state of war will always be deprecated by all wise and good men; but, when it becomes unavoidable, a patriotic mind will cheerfully submit to all its calamities, rather than see the rights of his country wantonly violated.

"It must always, however, be expected that there will be some malcontents under the purest administration of the most perfect human government. These, in times of profound peace, may be allowed to riot in slander and vociferate their malice without control. Although they constantly aim their poisoned arrows at public virtue, it is too far elevated to be endangered by their folly. But in times like the present, when an anxious public are examining every article in circulation, in order to learn the true state of facts, then to deceive them is both cruel and treasonable. Such we consider to be the tendency of numerous essays in the federal papers at the present day.

"In order to establish the above charge, we ask such as can recollect, or have read, the language held by the royalists at the commencement of the late Revolution, were not these the arguments on which they urged the necessity of submission to every measure of the British cabinet, namely, that we have no sufficient cause for war? They would fain have made the world believe that the whole cause of resistance was about a three-penny duty on tea; that John Hancock and Samuel Adams were the principal cause of the difficulty. But enlightened freemen could not be duped by such base artifices. They knew it was not the mere tax on tea, but the *right* which Britain claimed to tax us

without our consent in all cases whatsoever. That power that could lay a tax of three-pence without our consent, might lay one to any amount by the same principle. Another argument was, that we had no prospect of success. We had everything to lose, and nothing to gain. The wealth and prowess of the parent state they never failed to magnify; while, on the other hand, our want of every means necessary for successful resistance, as well as our unskillfulness in arms, were constant topics of public declamation. Resistance under these circumstances was deemed madness. But the issue put the lie upon the whole.

“Is not the above an exact picture of our high-toned federalists of the present day? They call the present contemplated war Mr. Jefferson’s war! And what, it may be asked, is the man whom they have heretofore represented as a mere philosophic, pusillanimous creature, all at once determined on going to war? And what has aroused his resentment? Why, if we may believe them, it is neither right, nor honor, nor interest, but merely revenge! For nothing else but to protect ‘British renegades and deserters’! A man must be contemptibly ignorant, or awfully depraved, to make such a statement. Yet the reader has only to consult the Gazette and Repertory to see this and much more asserted.

“‘It is simply a war of revenge,’ says a writer in the Gazette of Thursday last. ‘It is pretended to be a vindication of our honor. It is a war of chivalry.’ All this is demonstrated as plain as the nose on your face by the following very striking simile: ‘My apprentice or my servant,’ says the writer, ‘insults my neighbor’s daughter or wife; my neighbor calls me a rascal and scoundrel, and then demands satisfaction. I reply, Neighbor, I will give you all reasonable satisfaction for my servant’s ill conduct. Upon which he not only demands acknowledgment, but requires that I should give him up a field directly before my house, and to which he has no pretension.’ This

clumsy figure represents the United States as not only demanding some acknowledgment for the murder of her citizens, but the wicked Ahab demands Naboth's vineyard. Had the writer made his statement in the following manner, he would have given a much fairer representation of the subject: 'My servant, without knocking or waiting to have the door opened, drives into my neighbor's house, under pretence of looking for a runaway fellow-servant; he abuses all the family, and takes by force one of the domestics, which he claims as mine; and also drags off one of the children, which he swears is equally mine. My neighbor calls me a rascal, and demands satisfaction. I reply, Neighbor, I am willing to make you an acknowledgment, such as I think proper, on account of my servant's abusing your family, but I shall insist upon it that my servant shall enter your house at all times without your leave, and take from it whatever he claims as mine; but I will caution him to use you civilly while in it.' This is the degraded situation to which these writers say we must and ought to come.

"It is not a fact that our government is going to war to protect British renegades and deserters; but they wish to protect our own seamen. It is seen that it will be impossible to do this, if their right to enter and search our vessels is admitted. How many of our seamen, we ask, who are American-born, are held in a state of unjust servitude, but little inferior to Algerine slavery, into which they were forced under the pretence that they were British subjects?

"Our government, we are bold to say, are so far from wishing to involve the country in a war, that they are ready to accommodate the subsisting differences in any honorable way that would not affect our essential rights as an independent nation. Whether these can be settled without trying the hard pull of war, we know not; but we have the fullest confidence in the executive, that every-

thing which justice, reason, humanity and honor, can demand will be done.

“The federalists may congratulate themselves, in the mean while, that they have unceasingly opposed every obstacle in their power in the way of the executive; so that if the government is obliged to relinquish some of its well-founded claims, or to go to war to support them, they may thank themselves for it. If the British believe what they see in the federal papers, as they undoubtedly do, as they consider them as their exclusive friends, they will be deceived as they were formerly by the tories. Ten regiments were then said to be amply sufficient to conquer America. Our situation is represented now as less favorable to successful resistance than at that time. If this were in fact the case, I should suppose the man guilty of treason who should publish it to our enemies. Did General Washington, while stationed in this vicinity, let the enemy know his real weakness? No; his prudence concealed everything of the kind, though his own reputation suffered at the time in consequence of it. To keep up an appearance of real strength, it is said that casks of sand instead of gunpowder were supplied in the commissary’s department. What would have been thought of the man who should have disclosed this secret? He would at least have been detested as a perfidious traitor.

“It is remarkable to see how the views and feelings of certain men have altered within a few years. This same party, now so very anxious for peace, were the zealous advocates for war under Mr. Adams’ administration. Then we were in no want either of men or money. Then the cry was, ‘Millions for defence, but not one cent for tribute.’ Some have presumed to say, that it ‘was the firm ground we took’—I suppose they mean the formidable appearance that we made with our navy and army—that brought the French government to terms. What if we should try it again, and see what effect it would have upon old England?

“But, alas, we have one difficulty! The clergy then were enlisted in the federal cause; of course the president was never forgotten in their prayers. They not only petitioned for a supply of wisdom for him, but especially for firmness. No such petition is offered for our present chief magistrate. Nothing is more dreaded than his firmness in the present crisis of our affairs. Their only hope is that their clamor will raise a party to intimidate the executive into their measures. May God preserve him from error, and from every degrading concession to our imperious foes! We know that a ‘vast responsibility rests upon him;’ but every virtuous American, whose patriotic feelings are alive, will cheerfully bear a part with him in every lawful effort to support our violated rights. Every man who would abandon them, until everything was done within the reach of human possibility, must be considered as a traitor or a coward.”

In making these copious extracts from his gazette contributions at this period, they have not been selected for their merits of composition, since they were necessarily, from the pressure of other engagements, very hastily prepared. The object has been simply to show how earnest was his solicitude to keep opinion in the right path, and to counteract, as far as he was able, the effect produced upon the public mind by the eloquent productions of the federalists. He thought we were more likely to escape the calamities of war by assuming a decided and somewhat defiant tone towards our aggressor, than by any efforts to conciliate, or appearance of submission. We were her inferiors in wealth, in numbers and in preparation; but power, both from prudence and magnanimity, respects the right that is boldly asserted; and events subsequently proved that our readiness to respond with proper spirit, both in word and deed, to the existing exigencies of our position, in a measure abated the pretensions of her cabinet, and rendered occasions for complaint less frequent.

The administration of President Jefferson was now draw-

ing to its close; and, notwithstanding the very general desire of his party that he would suffer himself to be nominated for a third term, he unequivocally declined. In the general ascendancy of the republicans throughout the country their nominee was assured of success; and their present selection appeared to be limited to Madison, Monroe and George Clinton, the actual vice-president. At the five elections which had already taken place since the organization of the government, Washington and Jefferson, Virginians, had won the field in four; the other resulting in the choice of John Adams, of Massachusetts. The proposed selection of yet another Virginian for the succession now created a reasonable jealousy in the minds of many statesmen at the north. It was, indeed, a palpable inconsistency with the principles of justice and equality which should regulate the distribution of federal honors among the states, and on a due respect for which the stability of the Union must ever, in some measure, be dependent.

Quite regardless of any such considerations, however, Mr. Madison was now the prominent candidate. In one of the political pamphlets of the day we find it stated that the support of the party was tendered to Governor Sullivan for the vice-presidency, as also afterwards to John Quincy Adams. As respected the former, his health was already too much broken, and life become too precarious for this distinction to tempt. Besides, he wholly disapproved of any such perpetuation of power in the "Old Dominion," and deemed Clinton, by character, wisdom and long public services, the best entitled of all the candidates to the presidency. Towards the end of 1807, there appeared in the *Washington Expositor* and other journals several series of articles signed Nestor, Epaminondas, Montgomery and Americanus, advocating Clinton's claims; and these were later printed in a pamphlet for popular circulation. Without professing to decide conclusively as to the authorship of the eight long and able articles over

the signature of Americanus, they present much evidence to confirm the belief that they were written by Governor Sullivan, whilst containing no statement or expression to shake such an hypothesis. There were, no doubt, other writers who used the same signatures that he did; but there seems little probability that the internal marks of his authorship, to be found in these essays, should apply to any one else. They advocate a single presidential term; that no candidate, not sixty-four years of age, should be considered eligible; that parties should respect the equitable claims of different sections of the country in selecting their candidates; and offered many other suggestions worthy to be considered by such as have at heart among the people peace, and good-fellowship, and the permanence of our institutions. The movement was without effect. Madison was chosen; and his successive elections, and those of Monroe, both of them being pupils and personal friends of Jefferson, continued to Virginia for four terms longer the supreme control of affairs; and thus gave her eight out of the first nine presidential periods.

CHAPTER VIII.

ADMINISTRATION.

INTELLIGENCE of the attack on the Chesapeake reached London on the twenty-fifth of July, and was immediately communicated by the foreign secretary, Mr. Canning, to Mr. Monroe. Readily admitting the search of armed vessels unjustified by public law, when the British government learned that in consequence of the outrage our harbors had been closed to its cruisers, conceiving this an unfriendly measure of redress, it hesitated to make reparation. Still the particular conjuncture favored pacific counsels. The treaty of Tilsit, then recently signed, placed Napoleon at the acme of his glory and greatness. Prussia was subdued, Russia obsequious, Spain trembling before the fatal fascination of her approaching despoiler. By force of his genius, indomitable perseverance, freedom from scruple, and indifference to human suffering, the emperor, through his vassal kings, from shore to shore controlled the continent, and wielded a power which no one ventured to dispute. Confiding in her wooden walls and the bravery of her people, England, alone undismayed, with the increasing perils which surrounded her became but fiercer for the conflict. In anticipation of the secret schemes of Tilsit, she was already projecting her attack upon Copenhagen, and cared little whether her revolted offspring in America remained in suspected neutrality, or ranged themselves without disguise among her avowed enemies.

Having no armaments to inspire respect, and our valuable commerce and exposed sea-boards, inviting depredation, war with this country would have been popular in her army and navy, among her East and West India merchants, and with many of her most influential statesmen and politicians. When, in October, her victorious squadrons returned from the Baltic, leading captive the Danish fleet, neither consistency of character nor public sentiment counselled any great degree of condescension. On the sixteenth the king issued the proclamation commented upon by Sullivan towards the close of the previous chapter. In it he recalled his seamen from foreign service, and authorized their seizure from neutral merchantmen, extending his claim to all born his subjects, who, by becoming naturalized citizens in other countries, had abandoned his allegiance. An embargo on American vessels in English ports was openly advocated.

Possibly from the allurements of trade, possibly from party dissensions, either because we were deprived by Jefferson of means to retaliate, or were wanting in gall to make oppression sufficiently bitter, notwithstanding our ample grounds for resentment we had submitted in meekness. Finding no pretext for quarrel, England finally concluded to send a special minister to Washington, and to tender to our mortified pride amends, apology and reconciliation. Mr. Rose, selected for the mission, reached Norfolk the day after Christmas; his arrival preceded a few days only by that of Monroe, who had returned home, leaving Pinckney, the eloquent lawyer of Baltimore, as our representative in London. Hampered by impracticable instructions demanding the revocation of the interdict as a preliminary to negotiation, while refusing to touch the one great subject at the root of the whole controversy, that of impressment, the diplomacy of Rose but complicated the entanglement, and he went home in March, without having even divulged his intended proposals of reparation.

On the fourteenth of December the president received

dispatches from Mr. Armstrong, at Paris, stating Napoleon's determination to enforce the Berlin decree; and other arrivals brought tidings of the British orders in council of the eleventh of November. These orders declared illegal, for neutrals, all trade in the products or manufactures of the enemy, unless when direct between the enemy's colonies and the neutral country, or where bound to, or after having touched at a British port, and subjected all vessels purchased of the enemy, or having on board a French certificate of origin, as well as the goods covered by such certificate, to condemnation.

These arbitrary regulations aimed a death-blow at American commerce, and indicated a settled purpose to provoke hostilities. But we were not inclined or prepared for war. Nor, had we been so disposed, would it indeed have been easy to decide, having suffered aggressions from both belligerents, which we ought to select for our foe. If we entered into a triangular conflict with both, our inadequate means and party divisions would have soon reduced us to humiliation. Should we seek strength by alliance with either, we should have had more to dread from our allies than our antagonists. Congress adopted a middle course. When the president communicated the recent diplomatic correspondence, on the eighteenth of December, it was well understood, though not from official sources, that the orders in council had been issued, and Congress passed, almost without debate, an embargo, dated the twenty-second, prohibiting all vessels quitting our harbors except those of foreign nations with the cargoes they had actually laden. The bill passed the house by a vote of eighty-two to forty-four, the senate by twenty-two to six; Mr. John Q. Adams, one of the senators of Massachusetts, and a majority of her delegation, voting for, the other senator, Colonel Timothy Pickering, against it.

This measure was defended at length, and with his usual ability, by Mr. Madison, the secretary of state, in the gov-

ernment organ, the *National Intelligencer*. He argued that the embargo, though a customary precursor of hostilities, was the only expedient we possessed to avert such a calamity, and peaceably bring our aggressors to terms. Our naval stores were indispensable to England, our breadstuffs to her colonies. France would miss her colonial luxuries, and the sale of her productions, the principal source of her revenues. Spain would be cut off from supplies of imported food, not making enough of her own for subsistence. To neither nation could it afford just ground of complaint, since it was simply a measure of precaution, not of aggression; and Washington had sent Jay to negotiate, embargo in hand. When, afterwards, the embargo was subject of debate in the English Parliament, Mr. Brougham used the following language: "If it be said this measure was adopted suddenly, a charge which I think cannot be attributed to it, I answer, if it was done at all it behooved it should be done with vigor and promptitude the very moment the government of the United States perceived it was called for by the measures the British nation adopted. As soon as this unexpected attack upon their navigation was known, they were obliged to provide against its certain effect by some measures of precaution."

England suffered in other ways than in those mentioned by Mr. Madison from the embargo. Already more than one half of the sixty-one million pounds of cotton consumed in her mills were of American production, and the annual balance of our trade in her favor amounted to eight millions sterling. Our markets were important to her manufactures, our ports afforded a convenient shelter for her fleets. Moreover, there was sensible ground for apprehension that, under its continued pressure, distress would force us into a French alliance; and, if not very formidable by ourselves, we should have greatly contributed to the strength of Napoleon. It is well known that the embargo of April, 1812, induced a modification of her offensive regulations, a

concession not known in America till after war had been declared, and hostilities commenced.

Plausible as these arguments were, in support of its expediency, the embargo failed not to produce a profound consternation. If not immediately followed by actual suffering, and if the sanguine expected it to be limited in duration to sixty days,—as that under Washington had been,—instead of about fifteen months, its actual continuance, those whom it endangered were quick to perceive its inevitable consequences. Extraordinary profits had induced extension of trade, inflation of credit, expensive habits. A check to commercial enterprise must bring ruin to the merchants, and destitution to all who depended upon them for a livelihood. Massachusetts owned over three hundred thousand tons of shipping, one third of the whole national tonnage. The bread of her people was on the waters, in navigation and commerce. From her fisheries she derived important staples of export. This sudden paralysis of all her industrial pursuits threatened not merely distress but destruction.

The merchants in Boston and of other seaports, encouraged by the belief that the treaty of the preceding December would soon be ratified, had, in the spring, adventured largely to India, on the expectation that the repeal of the non-intercourse acts would be a part of the general plan of conciliation. In this disappointed, some of the more considerable now in vain memorialized Congress for permission to enter their return cargoes. This additional blow to trade filled to overflowing the cup of calamity.

Among the first to experience its ruinous consequences were the sailors, who were thrown out of employment, and, being naturally improvident, had no resources to rely upon. On Thursday, the seventh of January, from eighty to one hundred of them, carrying a flag at half-mast, marched with martial music to the house of the gov-

ernor, on Summer-street, vociferously demanding employment or bread. As soon as he could be heard, he addressed them, "with a presence of mind which became his exalted character, suggesting the impropriety of their manner of seeking relief, and declaring he could do nothing for them in his official capacity." He persuaded them to submit good-humoredly to what they could not prevent, and, treating them with great kindness, they soon marched away, well pleased with their reception.

The General Court assembled for its winter session in a state of unusual ferment. Among all prevailed a mingled sense of humiliation and resentment at the indignities offered to our flag, and at the recent encroachments on our rights of neutrality. This was directed, not simply towards the aggressor, but, in the ranks of opposition, expressed itself in vehement denunciation against the president and his supporters for the measures adopted or advised in vindication of national honor. All felt that the country was approaching a crisis, with war for its probable issue. In a letter to General Dearborn, dated on the fifth, Sullivan writes: "Our apprehensions of a war grow stronger. I am of opinion that Great Britain cannot give up her claim to seamen, her native subjects; and that we cannot agree to her enforcing that claim by searching our ships and taking the people from under our flag. But this will reduce the question to what we lawyers call the *modus in quo*, the manner in which that claim shall be maintained. If this is the only point the two nations wage war upon, it must be finally settled by treaty, unless the war is eternal; and I do not know why it cannot be as well settled now. But, if England means to compel us to come into an alliance with her, we are to stand and reflect on the situation of the Netherlands, Germany, Prussia, Hanover and the other countries to which she has pretended to reach the hand of protection."

In his opening speech on the eighth, after recommending amendments to the act organizing the court of sessions, a revision of the jury laws, and that all bills before the General Court, after a second reading, should be printed, the governor stated the militia force of the state to be, by the last official returns, sixty thousand four hundred and twenty-two men, and that our quota, ordered by the president, was ready for service. He said that for twenty-seven years, since the recognition of our independence, we had enjoyed great political prosperity, and, following the advice of Washington, been generally enabled to keep ourselves strictly neutral. The existing convulsions of Europe had led to peculiar embarrassments, and we could no longer remain indifferent to events which agitated the world.

The two great maritime nations had violated our neutral rights, and we were in danger of being forced into the vortex of a general and expensive war. To escape, if possible, this complication, resort had been had to an embargo; for why should our vessels go to sea, if all bound to France were to be seized by Great Britain, all to English ports by the French? An embargo was certainly a calamity, but it was all-important to have time to deliberate, and, in the mean while, not to suffer the country to be stripped of its seamen and naval resources. Were the war to be with more than one power, we need not hurry to the contest; if with one only, as the incidental ally of the other, we should proceed with caution, under compact of alliance, and not rush with rashness, and without due preparation, to the combat. Uninvited, to extend the hand to either would only be to lay ourselves at her feet.

While in so many respects we were still the subject of envy to other nations, we ought not to murmur at our share of calamities common to them all. Had we been still connected with England, her wars would have been ours. Independent, and with rulers of our own choice, we might remonstrate, but not resist that government,

which, if in error, still represented the voice of the majority. The crisis had been aggravated by an unsubstantial and excessive paper currency, and all its evil consequences had been ascribed, but with great injustice, to the administration.

Any division of the states would instantly dissolve the nation, and annihilate every legal obligation to civil and social duty. Our enemies knew that, if the present national constitution were dissolved, the United States could never again exist as a sovereign and independent power, but must fall a victim to foreign despots, or, what was more likely, become the abject dependents of petty tyrants among ourselves. Were the prevailing disposition to discredit the government when on the verge of war that of our own people, it was highly criminal; if of foreigners who had gained a residence in this country, it was a base misuse of the indulgence derived from their situation.

It was time we had become one people without invidious distinctions, having no other appropriate appellation but that of American citizens. An elective government could never destroy a nation or overthrow its liberties; yet, we might be assured from the nature of things, as well as from ancient and modern history, that a want of union among ourselves must inevitably involve us in slavery and ruin. But he was satisfied that Massachusetts would still hold her important rank in supporting the federal government on the principles of the Revolution, and that no circumstances however perilous, or appearances however doubtful or gloomy, would cause this commonwealth to shrink from a contest, where the honor and independence of the United States was in question.

In order to satisfy public curiosity as to what would probably be the issue of the entangled relations between the two countries, the speech was published in the London papers, and also received much encomium in our own. The answers of both senate and house were in unison with the general tone prevailing of alarm and irritation.

That of the latter, prepared by Joseph Story, is remarkable for its warmth and vigor, for that combination of profound wisdom and genius which for half a century distinguished all his intellectual efforts. When it was proposed to substitute the words "of royal proclamations and imperial decrees" for his own expression "of imperial mandates" in the answer, Story defended his draft in an eloquent argument. Two days later, as chairman of the judiciary, he presented his report upon the reorganization of the tribunals, with an exposition at once learned and lucid of chancery powers, which we give below. Three bills accompanied his reports. The two first, for reërranging the terms and powers of the supreme court and common pleas, were adapted to the then extensive dimensions of the commonwealth. The third was to create a court of chancery for cognizance of cases in equity, divorce and appeals in probate, with proper jury provisions. It will be entitled to consideration, should existing prejudices against such tribunals ever be conquered by the experimental proof of their beneficial operation elsewhere. The season was not propitious for so absolute a change in the judicial system; and all the bills were either rejected or referred. The report is as follows:

"In the first bill they have availed themselves of the learned labors of their predecessors, and cannot but recommend the system proposed by it, as combining very great simplicity with very great advantages. In the second bill they have proposed amendments to the courts of common pleas, which, without impairing their general structure, are calculated to produce salutary effects and lasting benefits. The object of both these bills is to render the administration of justice simple, prompt and cheap; to settle principles of decision, which may stand the test of future scrutiny; to awaken the emulation of learned men; and to bring relief home to the doors of the oppressed and the injured.

“These bills comprehend all the amendments which the committee deem essential in the courts of common law. But there are various cases, claiming the attention of an enlightened legislature, in which no remedy for wrongs exists at common law, or the remedy provided is ineffectual and incomplete. The courts established for the ordinary administration of justice are bound by settled forms of proceeding, and by a rigid adherence to rules of decision, which, though wisely and admirably framed for the purposes of justice, are sometimes injurious in their application to particular cases. This consideration has induced that intelligent nation, from which we in a great measure derive our laws and our usages, to institute courts of equity, whose jurisdiction extends to all cases where natural justice gives a right, and the common law has provided no means to enforce it. The same necessity, aided by the same consideration, has induced several, and among these two of the most intelligent, states in the Union to establish courts of equity; and, when the committee name the respectable states of New York and Virginia, they presume that the weight of such authority will not easily be shaken. As the principles and the jurisdiction of courts of equity are not familiarly understood among us, and the committee have deemed it their duty to offer a bill on this subject, it cannot be incorrect in them to submit the reasons which led to the suggestion.

“Courts of equity, as contradistinguished from courts of law, have jurisdiction in cases where the latter, from their manner of proceeding, either cannot decide at all upon the subject, or cannot decide conformably with the principles of substantial justice. Whenever a complete, certain and adequate remedy exists at law, courts of equity have generally no jurisdiction. Their peculiar province is to supply the defects of law in cases of frauds, accidents, mistakes or trusts. In cases of fraud, where an instrument is fraudulently suppressed or withheld from the party claim-

ing under it; where an unconscientious advantage has been taken of the situation of a party; where a beneficial property is injuriously misappropriated, equity interferes, and compels complete restitution. In cases of accident or mistake, where a contract has been made respecting real or personal estate, and by reason of death it cannot be completed; or where, by subsequent events, a strict performance has become impossible; where, in consequence of a defective instrument, the intention of the parties is in danger of being defeated; or where a want of specific performance cannot be compensated in damages; equity administers the proper and effectual relief. In cases of trust, where real or personal estate, by deed, will, or otherwise, is confided to one person for the benefit of another; where creditors are improperly preferred or excluded; where numerous or discordant interests are created in the same subject matter; where testamentary dispositions, for want of a proper trustee, are not fulfilled; and where fiduciary estates are, by connivance or obstinacy, directed to partial or unjust purposes, equity applies the principles of conscience, and enforces the express or implied trusts according to good faith.

“ Sometimes, by fraud or accident, a party has an advantage in proceeding in a court of ordinary jurisdiction, which must necessarily make that court an instrument of injustice, if the suit be suffered; and equity, to prevent such a manifest wrong, will interpose, and restrain the party from using his unfair advantage. Sometimes one party holds completely at his mercy the rights of another, because there is no witness to the transaction, or it lies in the privity of an adverse interest; equity, in such cases, will compel a discovery of the facts, and measure substantial justice to all. Sometimes the administration of justice is obstructed by certain impediments to a fair decision of the case in a court of law; equity, in such cases, as auxiliary to the law, removes the impediments. Sometimes, prop-

erty is in danger of being lost or injured, pending a litigation; equity there interposes to preserve it. Sometimes oppressive and vexatious suits are wantonly pursued and repeated by litigious parties; for the preservation of peace and of justice, equity interposes in such cases an injunction of forbearance.

“These are a few only of the numerous cases in which universal justice requires a more effectual remedy than the courts of common law can give. In proportion as our commerce and manufactures flourish, and our population increases, subjects of this nature must constantly accumulate; and, unless the legislature interpose, dishonest and obstinate men may evade the law, and entrench themselves within its forms in security. One or two striking instances, applicable to our present situation, will illustrate these positions. In this commonwealth no adequate remedy exists at law to unravel long and intricate accounts between merchants in general; and between partners the remedy is still less efficacious to adjust the partnership accounts. A refractory or fraudulent partner may seize the books, papers and effects, of the firm, and cannot, by any process, be compelled to disclose or produce them. In many instances, therefore, neither debts can be recovered, nor accounts be adjusted by them, unless both parties are equally honest and equally willing. Great evils have already arisen from this cause, and still greater must arise, unless equity be brought in aid of law. In cases of pecuniary and specific legacies, no complete remedy lies to compel a marshalling of the assets, or an appropriation of them according to the intention of the testator; and, where the interests of the parties are complicated, great injustice must often ensue. In cases of trusts, created by last wills and testaments, which are already numerous, no remedy whatsoever exists to compel the person on whom the fiduciary estate devolves, to carry them into operation. He may take the devised property, and, if his conscience will

permit, may defy all the ingenuity and all the terror of the law. Mortgages afford a great variety of questions of conflicting rights, which, when complicated, are beyond the redress of the ordinary courts; nay more, may often be the instruments of iniquity under their judgments. A discovery on oath seems the only effectual means of breaking down the barriers with which the cunning and the fraudulent protect their injustice. The process, by which the goods, effects and credits, of debtors are attached in the hands of their trustees, is often inefficient, and sometimes made the cover of crafty chicanery. Perhaps, too, in assignments of dower, and partition of estates, where the titles of the parties are questionable and intricate, or the tenants in possession are seized of particular estates only, it will be found that courts of equity can administer the only safe and permanent relief.

“The committee are not aware of any solid objection to the establishment of a court of equity in this commonwealth. The right to a trial by jury is preserved inviolate; and the decisions of the court must be governed as much by settled principles as courts of law; precedents govern in each, and establish rules of proceeding. The relief granted is precisely what a court of law would grant, if it could; for equity follows the law. The leading characteristics of a court of equity are, the power to eviscerate the real truth by discovery of facts upon the oath of the party charged; the power to call all parties concerned in interest, however remote, before it; and the power to adapt the form of its judgments to the various rights of the parties, as justice and conscience may require.

“If the admirable provision of the constitution be duly enforced, that every citizen of the commonwealth ‘ought to obtain right and justice freely, and without being obliged to purchase it, completely, and without any denial, promptly, and without delay,’ the committee feel some confidence that a system of jurisprudence, which points to

all the objects of legal and equitable jurisdiction, will not be thought unworthy of the deliberate and the earnest attention of the legislature."

In debate, and as chairman of other important committees, Judge Story was, during this session, the prominent member of the house. The responsible task was devolved upon him to prepare amendments to the statutes, that they might better correspond with the decisions of the supreme bench. The universal deference felt throughout the state for the wisdom and learning of Chief Justice Parsons, induced a ready acquiescence in his fearless recognitions, as common law in Massachusetts, of much which rested upon immemorial usage, or was dictated by justice or common sense. But it may with confidence be asserted that a characteristic principle of democratic faith would have restricted the bench to an interpretation of the law, as established by statute and precedent, and viewed with jealousy all encroachments upon the legislative functions. Story was also called upon to revise the whole system of arrests and attachments; and Dr. Mitchell introduced, in an able speech, a system for the discharge of insolvent debtors and a just distribution of their effects among their creditors, a branch of jurisprudence then with us but in the embryo.

In order better to facilitate their reference to committees, Judge Sullivan made his constitutional suggestions to the legislature in separate messages.

On the first Monday of the session he sent in from the council-chamber nine different communications, many of them of considerable length. The first covered an amendment, proposed by Vermont, to the federal constitution, for the removal of federal judges on address; the second recommended the revision of the state militia laws; the third inclosed a letter from inhabitants on our eastern border, stating the menacing appearance and conduct of the British, who were erecting fortifications on the eastern bank of the Schoodick; the fourth treated of the strength

and quality of the gunpowder manufactured in the United States, and the importance of establishing an inspection for what should be manufactured or brought within the state; the fifth proposed amendments in the sessions act passed in June; the sixth was on the subject of fortifications; the seventh on the Penobscot Indians; and the eighth on the late draft of eleven thousand and seventy-five men at the requisition of the president. The last was of a confidential nature, and, while under consideration, the galleries were cleared. It stated that though the militia were generally in good discipline, their arms were very defective; that twelve thousand were without muskets; that five thousand stand of small arms could be obtained at Washington, and advised their purchase.

Neither space nor our subject warrant minute details of all the measures of the session, or their fate; but, were it appropriate, we would gladly mention members of either branch who took part in their discussion. Among the senators, Otis, Gore and Bigelow, led for opposition; Hill, King, Morton, Sprague and Spooner, were the principal combatants for the administration. In the house, the most conspicuous republicans were Crowninshield, of Salem, afterwards secretary of the navy under Madison, and brother of Jacob, member of Congress from his district, whose death in Washington a few weeks later caused general regret; Prince, of Marblehead; Bangs, of Worcester; Bacon, of Stockbridge; Smith, of Springfield; Ripley, of Winslow; while among the prominent federalists were Whitman, Mason, Lloyd, Sullivan, Wheaton and Bradbury, of Portland.

General William Eaton, of Brimfield, late consul at Tunis, who, by his prowess at the battle of Derne, and his services in rescuing some three hundred Americans from African servitude, had gained distinction and a grant of ten thousand acres of land from the state, had been occupied during the summer as a principal witness against Aaron Burr.

With less than his accustomed astuteness, Burr had made him his confidant; but his treasonable projects were revealed on different occasions, and so indirectly that, in obtaining knowledge of their full extent, Eaton was neither compromised in the crime nor committed to secrecy. His deposition shows that Burr's ulterior object was not Mexico or the Spanish possessions, but the erection of the western states into a new empire, of which he modestly proposed to become the dictator. Chosen to the house by federalists, Eaton generally was a staunch supporter of republican measures. Soon after taking his seat he made a forcible speech, advocating resolutions to fortify the heights in the vicinity of the capital, provide a train of flying artillery, and for gradually putting the military into uniform. Another speech of his upon the Vermont constitutional amendment, for removing the federal judges on address, reported at length, was ardent and characteristic.

Besides those which have been already enumerated, the governor made several other communications to the court, and among them four refusing his assent to bills or resolves to which he found reason to object. One, for creating a registry of deeds in the county of Washington, he returned, on the ground that its provisions were not sufficiently definite, and in some respects conflicting. A bill subjecting convicts, pardoned on condition, to the pains and penalties of their original sentence, where they violated the condition, he vetoed, on the ground that it encroached upon the executive prerogative as established by the constitution. He rejected a private resolve for leave to sell real estate, for the reason that the law already made provision for such cases through the courts of probate; and, where a resolve provided for the raising an independent company of cavalry, he questioned its propriety, as interfering with the general arrangements of the militia, which ought, he thought, to be organized on fixed rules, not to be disturbed without some important end was to be

answered. Both branches generally acquiesced in the propriety of these vetoes, and, in some instances, unanimously. On the conditional pardon bill, by a vote of twelve to eighty-three, the house sustained the governor, while the senate repassed the bill by a two-thirds majority. No authorized effectual standard of military discipline having been adopted, and the consequent want of system leading to confusion and insubordination, the governor recommended the preparation of a book of tactics for use in the commonwealth. The cession of Governor's Island to the United States for the erection of fortifications, the formation of the eleventh militia division, the troubles in the county of Kennebec, and other matters of less interest, formed the subjects of other messages.

Gallatin, secretary of the federal treasury, was now advocating a modification of Hamilton's funding system, which could be accomplished without infringing upon the rights of actual holders, and by which one half the extra amount, which was now promised to be paid, should be given to the first recipient of the scrip, the other to the actual possessor. The papers swarmed with articles upon the subject, and Sullivan, among others, sustained the views of Mr. Gallatin. Petition was made to the legislature of Massachusetts to adopt the same rule in payment of the state debt, called the new emission of 1780; but without result.

The most important measure of the administration, actually accomplished, was the betterment law, which had been referred over from the June session. It was for the benefit of the squatters; or, to use another expression, that large number of people who, in new settlements, plant themselves upon the land of others without first asking permission. This law gave the settler, after six years, a right to the value of his improvements, should the owner choose to eject; to the latter the value of the land, if it were left to the tenant. With a view to anticipate the operation of this law, the large landed proprietors of Maine, and spec-

ially the Plymouth Company, whose territories extended over about two millions of acres, had been busily engaged during the recess in suits for the recovery of their lands. They offered terms of compromise, which were rejected as unreasonably exorbitant by some of the settlers, by others in the hope that their condition would be improved by the passage of the law. Many of the individual proprietors respected the necessities of their poorer compatriots, and released for less than value; but the agents of the companies, from fidelity to what they conceived their duty to their employers, were often harsh and oppressive. The country was thrown into a state of great agitation; the more unseasonable, that war was impending, and might be expected to make its first appearance from the eastern border. Sheriffs' officers, attempting to serve process, were insulted, and in two instances in November fired at and wounded.

The principal scene of commotion was in the region north-east from Augusta, the shire town of Kennebec, about Unity and Fairfax; but the disaffection extended over nearly the whole counties of Kennebec and Lincoln. Several hundred men, adopting the Indian garb and imitating the Indian dialect, masked and armed, had been, during the summer, observed in the woods and out-of-the-way places; and, during the winter, menacing letters were received by the sheriffs, threatening resistance to legal process. Some of those known to be implicated in these outrages and threats were substantial farmers, whose whole property was in jeopardy from these suits. Others were lawless individuals, such as invariably were found about the outskirts of civilization in the district, engaged in rafting or in cutting timber, and often the latter without any pretension to right. Both parties petitioned the legislature for what they respectively considered the justice of their cause demanded, and the squatters gave the sheriffs

and their employers to understand that no service of process would be submitted to till the matter was decided.

Probably in consequence of the severity of the winter, which sets in early in that part of the country, or that this was the season for their labor in the forests, as it advanced, assemblages of any numbers became less frequent, and gradually ceased. For some weeks before the meeting of the legislature nothing had occurred looking like insurrection, or even amounting to resistance to the law, except idle threats and anonymous letters.

Arthur Lithgow was sheriff of Kennebec. He had been an ardent federalist, but had lately joined the republicans, and warmly advocated the election of Governor Sullivan. Of excellent character and good sense, energetic and brave, he had provoked hostility among the inhabitants by his uncompromising temper, yet had failed to make himself respected by sufficient consistency of purpose. Early in January he reported to head-quarters the state of affairs, the troubles he had experienced, the apprehensions he entertained, and was advised, in answer, to rely upon the *posse comitatus* to enforce his precepts.

By the statute of the twenty-eighth of October, 1786, abundant provision was made for the quieting of riots and tumultuous assemblages, and by that of the twentieth of February, 1787, for suppressing tumults and insurrections. Both were passed at the time of the Shays rebellion, when public attention was fully alive to the necessity of wise and fixed rules for the preservation of peace when disturbed, for the security of government when assailed. The former, known as the riot act, devolved on justices and sheriffs the duty of dispersing gatherings of more than twelve men armed, or thirty unarmed, where unlawfully or riotously assembled. These officers could call to their aid the *posse comitatus*, or, in other words, a sufficient number of the inhabitants of the country in arms, if the rioters were armed, to quell the disturbance. This, in the water-melon

rebellion, in 1796, in Boston, had been resorted to with success. The other statute provided that, in case of dangerous insurrections existing or apprehended, notice should be given to the governor, who was requested to call out military force adequate to the emergency. Where the urgency of the case prevented notice, the sheriff, or any two justices of the supreme court or common pleas, might call upon the major-general or officers of the militia in the vicinity, to act under the direction of the civil officer, unless in case of rebellion declared by the legislature.

There had been no additional acts of violence since November, and nothing but threats and occasional gatherings for consultation among the discontented to cause any alarm. No call had been made upon the posse, no resistance offered to process, when, without any fresh grounds for apprehension, the sheriff, on the eighteenth of January, required of Major-General Sewall a detachment of four hundred men. He despatched an officer, Mr. Dillingham, into the disaffected districts of his precinct, whose report, dated the twenty-fifth, was sent to the governor. Mr. Dillingham stated that he had found a strong insurrectionary spirit, and that some of the better class had informed him that the Plymouth Company and their agents had harassed and vexed the people by unjust demands for their lands, and that, when a compromise was agreed upon, no safe deed was given. A general and serious combination had been entered into by several thousands in the county to oppose even by force the operation of the laws in favor of the company, until the subject of their complaints had been laid before the legislature, and some decision had. Many men, of dissolute life, and destitute alike of morals and of property, availing themselves of the general disturbance, had seized it as a golden moment to rid themselves of debt, to bid defiance to the laws and officers in every shape, and, by anarchy and confusion, to make others as poor and wretched as themselves. By this class of men the various acts of

violence had been committed, and those naturally of sober habits and industrious, had looked on in silence, thinking they were good dogs to hunt off the agents of the company. All those of property and information, and they were by far the greater part, gave assurance that they would make every exertion to have matters quietly settled, without the aid of military force.

On the twenty-fifth of January the sheriff wrote to the governor that he was about to commence hostilities in a few days with Spaulding's horse and some volunteers, while the militia were preparing; but, on the twenty-seventh, that the promptness of the government would have the desired effect. Two agents of the insurgents now assured him that tranquillity would be restored, and that the next day a meeting of about seven hundred, part of them masked and in Indian dress, and one half of them completely armed and equipped, would assemble at Fairfax to meet Mr. Dillingham, and choose a committee to wait on the sheriff, for the purpose of reconciliation. He hoped nothing would transpire to prevent a peaceable demeanor of these deluded people. Upon consultation with his council, upon this intelligence, the governor concluded that nothing in the disturbances justified the further resort to military force, and, on the first of February, he prepared and despatched, by a special agent, a printed proclamation for general distribution, with orders to General Sewall to disband the troops.

The course adopted by General Lithgow was doubtless actuated by a conscientious wish faithfully to meet the exigencies of a difficult duty; but he had been misled by his zeal into a mistaken sense of what that duty demanded. Had blood been shed, endless animosities would have rankled in the minds of the squatters, and probably roused that very spirit of insurrection which this military array was designed to prevent. In critical moments the responsibilities of his office required the best of tact and temper,

of prudence and circumspection, and with these a certain degree of popularity. Identified in the minds of the great masses of the people in Kennebec with these obnoxious prosecutions, which, through his subordinates, had been pressed, as the sufferers naturally thought, with unnecessary rigor, he had lost his influence, and was regarded with dislike. With war knocking at the gate, and quiet among ourselves indispensable for efficient action, public policy demanded, as a peace-offering to these wide-extended discontents, that he should be removed, and new men under a new chief substituted in his place and that of his deputies. Had his only error been a misapprehension of duty while endeavoring to sustain the supremacy of the law, there would have been some hesitation in sacrificing his personal claims even to an object so desirable as the public tranquillity. But he had informed the executive of the existing difficulties, and a course pointed out explicitly by the law, and adequate to the occasion, had been advised for his guidance. In opposition to their judgment he chose to assume responsibilities, not called for by the reality or appearance of resistance, by recourse to extreme measures, only applicable in the last resort, and, in the then grave posture of affairs, especially objectionable. Satisfied that his conduct had been indiscreet, and indeed, under all the circumstances, open to positive censure, after hearing his defence, the council advised his removal, and the governor, on the first of March, nominated John Chandler, member of Congress for Kennebec, as his successor.

A few days after, when it was too late to recall the nomination, the lieutenant-governor and six of the council entered upon their record-book a lengthy report upon the subject of the propriety of removing political opponents from office, which, when in the fall the federalists were in power, was printed for public circulation. Its close, in which the council declined to pass judgment upon the case of the sheriff of Kennebec, placed the governor in an

awkward dilemma, inasmuch as he had already offered the post to Mr. Chandler, then at Washington, and, laying before them all the papers and documents, he requested their opinion directly upon the question of Lithgow's removal, stating that he should be governed by their decision; upon which, they immediately confirmed Mr. Chandler. To prevent misconception, and to submit the propriety of his course to public opinion, the governor was careful to leave written records of every step in the proceeding, and requested that they should be preserved in a separate file in the state department. General Lithgow had advocated his election, and it was not on party grounds that he was superseded. When repeatedly urged, by his republican friends, to use his official patronage for their benefit, by removing from office federalists, who were competent and faithful, he declined, fearlessly braving the loss of his own influence, rather than countenance a pernicious doctrine, which he had at all times consistently reprobated; that the spoils belong to the victors.

Meanwhile, the betterment bill, expected to prove a sovereign remedy for all these difficulties, was winding its way slowly through the court. Petitions poured in from the squatters, earnest remonstrances from the great proprietaries. Traditions exist that powerful influence was made in its behalf by holders of defective titles in the capital. On the twenty-third the bill passed the senate, and on the twenty-fourth the house, by a vote of one hundred and eighteen to forty-four, and became a law on the second of March, 1808.* It is somewhat remarkable that though the bill was

* By this same law, writs of right upon the possession or seizin of an ancestor or predecessor, which, by that of 1786, were limited to sixty years, were restricted to forty years; and writs of entry upon disseizin of an ancestor or predecessor, which, by the former act, could be brought within fifty years, were now restricted to thirty; any claim upon one's own seizin being still confined, as by the act of 1786, to the same limitation. These periods have again been reduced by the Revised Statutes, and now, with some qualification for disabilities, are restricted to twenty years; all writs of right being abolished.

long under debate, an important and seemingly an unintentional omission, corrected by statute, 1819, chapter 144, escaped observation in both branches. The word "now" confined the statute to possession titles acquired at the time of its passage.

From a provision that the full value of the land should be paid within the year, afterwards changed to a payment by three annual instalments, by statute, 1809, chapter 84, the act failed to produce immediately all the good effects which were anticipated. When, on the fifteenth of March, the county jail, at Augusta, was fired by one of its eight inmates, it was, without reason, ascribed to lingering disaffection among the squatters. When the new sheriff, in the middle of April, made a tour through his county, he found some remnant of the former restlessness. Within a month the settlers had collected to the number of fifty at a time, at the sound of horns, in Indian garbs, well armed, equipped and organized. Little benefit was expected among them from the new law, owing to the difficulty, and in many cases the impossibility, in a period of universal distress, of raising sums equal to the value of the land. Moreover, the successful claimant, in some few instances, did not possess a perfect title, and tenants might be compelled to pay a second time. They had come poor into the county, and had settled on land which they knew was not their own, but which they believed the property of the commonwealth; in which case they had no doubt that they should be well used. They had spent their best years in improving the property, and were now liable to lose their all by pretended claims, which, through the superior power and influence of the claimants, were unjustly recognized in the courts. The sheriff succeeded in tranquillizing their minds, and the good sense and fairness of the Plymouth Company soon induced a contented spirit throughout their territories.

This repose was not, of course, without its interruptions.

In August, 1809, Paul Chadwick, an estimable young man, in Malta, who had been a schoolmaster, was engaged with others in running out the farm of a friend, upon an agreement of settlement with the claimant of the land, when several men, masked and dressed as Indians, came out of the bushes, fired at and killed him. When seven of those implicated were on trial, at Augusta, for the murder, the threats of attempted rescue made it necessary to call out an armed force to protect the jail and court-house. The evidence was conclusive, the judge's charge direct and to the point, yet the jury acquitted. When one of the jurymen was asked how they could render such an unrighteous verdict, he replied that they did not choose to hang seven men for killing one. In order to put a stop to such outrages for the future, by a statute passed soon afterwards, the adoption of Indian dress or other disguise for the purpose of intimidation or obstruction of legal process, was prohibited under heavy penalties. There were disturbances in 1811 on the Waldo patent, but in no instance had blood been shed in suppressing insurrections in Massachusetts since its great rebellion in 1786.

However gloomy their anticipations, the public had hardly commenced to experience all the bitter fruits of the embargo. There was indeed already sufficient poverty and want, and public soup-kitchens, a common indication of distress, were opened in Boston, Portland and other places. When the tidings arrived, in February, of the Milan decree, in which Napoleon declared denationalized and lawful prize vessels which had been stopped by English cruisers, touched at their ports, or submitted to tribute, the propriety of the embargo was more generally admitted; but there were not wanting those who thought that navigation would have suffered less from capture under the regulations, than from the cessation of trade. From time to time supplementary acts of the ninth of January, of the twelfth of March, of the twenty-eighth of April, and of

the ninth of June, were passed by Congress to enforce its observance, and military force ordered, though not actually put in requisition, to compel obedience. Towards the end of January Mr. Ripley introduced into the Massachusetts legislature resolutions expressive of confidence in the administration, and in approbation of its measures. They passed without delay both branches; in the house, by a vote of one hundred and seventy-eight to eighty-one.

Notwithstanding this unequivocal expression of their sentiments, and the yet more decided majority by which the original and supplementary act had passed Congress, our senator, Colonel Pickering, on the sixteenth of February, addressed Governor Sullivan a letter, setting forth his own views of their impolicy, and denouncing, in unmeasured terms, the judgment and motives of the administration. He rested his argument mainly on the ground that the embargo had been adopted before official information had been received of the orders in council, though no one doubted at the time of their existence, and the next arrival had confirmed it. While demanding, as his senatorial right, that the governor should communicate his letter to the court, he knew full well that so unreasonable a pretension would not, in any probability, be acceded to, and sent a duplicate to his friend, Mr. Cabot, for publication. Judge Sullivan had not read far before fully realizing its objectionable tone and character, and, not disposed to be made the unwilling medium of communication to the court of opinions at variance with theirs and his own, he closed it without reading further, and returned it to the writer at Washington. Letters of a courteous if not friendly tenor, interchanged not long before, seem to prove that there existed no unpleasant feeling on either side, and his note explaining his reasons for declining to comply with the request of Colonel Pickering appears sufficiently courteous. Upon the return of his missive, which he seems to intimate was not unexpected, Colonel Pickering affected

to consider himself injured, and replied with some asperity. His original letter was printed at Northampton. Its preface, signed "Thousands," a signature well known at that period, censured the governor for his course, and was in circulation when the second was received. The whole affair bore the suspicious semblance of having been indirectly designed to affect the approaching elections, and the publication of this second letter did not lessen the impression; though we should now acquit the writer of any other intention than that assigned by himself, considering the temper of the times and the circumstances. Some allowance also must be made for the misapprehension of motive indicated in the rejoinder; for, displeased at what seemed both ungenerous and disrespectful to his official station, Sullivan replied with some degree of temper.

Were it not too long for our limits, we should gladly give the whole correspondence, including the third letter of Colonel Pickering. In this he ably defended himself, not merely from the charges actually made upon him, but also from what he conceived, evidently without reason, to have been intended as personalities. Neither combatant was famed for gentleness of disposition when provoked; their blows were heavy and their metal keen; but, however earnest or angry the encounter, they were not sufficiently vulnerable for any great amount of harm to result to either from the combat. The correspondence afforded Colonel Pickering fitting occasion to refute the unfounded aspersions of partisan assailants, and to leave on record an interesting sketch of his public services. A letter of Mr. John Q. Adams, our other senator, to Harrison Gray Otis, dated the thirty-first of March, in answer to Colonel Pickering, forcibly sustained the policy of the embargo. It reviews the whole controversy between the United States and Great Britain, and proves the pretensions of the latter, to impress our seamen and interfere with our trade, inconsistent with the public law, the comity of nations and our

own independence. Taken together, these letters of Pickering and Adams present a most complete view of what was to be said upon both sides of the subject.

The annual fast proclamation, to which Colonel Pickering had alluded, as his correspondent appeared to think, with sarcasm and irreverence, is inserted, not as particularly good, when compared with the many eloquent productions of the state executive on similar occasions since, but as characteristic :

“The unchangeable nature of God assures to us seed-time and harvest, and the exact returns of the seasons forever. This cannot fail to excite in our hearts a sublime devotion towards him.

“At the opening of the year, when the husbandmen cast the seed into the earth, in hope of a plentiful harvest through his goodness ; when the merchants spread their commerce on the seas, with an anxious eye to his favor, it especially becomes us, in a public and solemn manner, to acknowledge our dependence, and to implore the blessing of Him who maintains the sun in his place to warm the ground ; who scatters plenty on the field from his clouds ; of Him, who hath bound the waters in a garment, and brings the winds from his treasuries.

“I have, therefore, thought fit to appoint and set apart, and by and with the consent of the council, do appoint and set apart, Thursday, the seventh day of next April, as a day of Public Humiliation, Fasting and Prayer, in the commonwealth ; and I do request the people of the same to assemble themselves on that day, in their usual places of public worship ; and there, among other acts of devotion, to render thanks to almighty God for his mercies ; more especially that he has created them rational creatures, with capacities to discern his existence and power from his works ; his wisdom and goodness from his government. That he has been pleased yet more fully to reveal his benevolence to the human race, by a display of his attributes

and perfections in the Scriptures. That the invaluable blessings of the gospel are freely enjoyed by the people of this state, allowing them, while it opens to them the highest privileges of religion and virtue, to worship God according to the dictates of their own consciences, so that no power can insert itself between them and the supreme object of their worship, or impose upon them a confession of faith which their hearts do not approve. That God has been pleased, in the course of his providence, to unite and to raise the United States to the rank of an independent nation; and has endowed them with wisdom to agree on constitutions of civil government, with systems of jurisprudence, which, if wisely administered, and faithfully executed, cannot fail to assure freedom and happiness to the country.

“ Though we are instructed by our holy religion, that our Father in heaven knows all our wants before we utter them, yet we are also taught that he has seen fit to make our prayers the condition on which he will bestow his favors, and the means to render us suitable subjects of them. The people will, therefore, on that day unite their sincere and ardent prayers for their country. That God will be pleased to support us in our republican forms of government, to continue and strengthen our national union and respectability. That he will inspire our rulers to make morality and virtue the care of the civil and legislative authorities. That he will guard us from covetousness, fraud, oppressions, envy and slanders, and all those crimes which are a reproach to, and have a tendency to destroy, a community. That he will smile on the labors of our hands, and on our enterprises in business, prospering our navigation and fisheries, so that, at the close of the year, we may come before him rejoicing in the continuance of his goodness, and uniting in the expressions of our gratitude for his favors. That he will be pleased to guide our public councils by his wisdom, in such a manner that our nation may be relieved from its present embarrassments, and that

our peace may be secured, and the independence and sovereignty of our nation be maintained without the calamities of war. That our success in business may induce us to acts of compassion and charity ; so that, while the poor are satisfied with bread, they may be encouraged, by laudable examples, to the practise of industry and frugality ; and the pleasure of doing good be greatly increased. That the arts may be encouraged, as having a tendency to dignify the human character, as well as to ameliorate the condition of human life. That our public schools, academies and colleges, with all other literary and religious institutions, may be faithfully and prudently conducted, and honorably maintained ; so that knowledge in the sciences may be cultivated under the laudable impression that they are designed to raise man from earth towards heaven, and to enable him to contemplate the divine perfections and attributes in a more exalted strain of thought.

“ I also recommend that, with their devotion, the people shall unite true and sincere repentance for their sins ; more especially that we have, in so many instances, misimproved our invaluable privileges, and disregarded those rules of morality, charity and benevolence, which the Author of our nature, our supreme Benefactor, requires of us, as the foundation of our public happiness. That we offer our fervent prayers to God, that he will, by his grace, enable us to walk before him hereafter in integrity and uprightness of heart ; in the exercise of that righteousness by which alone a nation can be exalted, and in the practice of those virtues which are the strength of a community.

“ Under a train of solemn reflections of this nature, the mind will be devoutly raised to the throne of the high and holy One, whose prerogative it is to forgive our sins ; who alone can crown the year with health, and fill it with plenty, and by whose grace only we can be made fit subjects of his mercy, and be blessed with public and private felicity.

“ Unnecessary labor will, of course, cease ; recreations be

laid aside ; worldly mirth will be silent, and the day be observed as a day consecrated to religion and piety.

“ Given at the council-chamber, in Boston, this fourth day of February, in the year of our Lord, one thousand eight hundred and eight ; and in the thirty-second year of the independence of the United States of America.”

Agreeably to the custom of his predecessors, in March he addressed general orders at some length to all the divisions. He endeavored to preserve in full glow the patriotic ardor and commendable spirit evinced by the soldiers the preceding season. They needed no additional incitements to their duty. During the year ten thousand had been added to their ranks ; and the Massachusetts contingent of eleven thousand and seventy-five were completely organized, armed and equipped, ready to march at a moment's notice. Of these, seven whole companies of cavalry, three of infantry and two of artillery, had volunteered. At the urgent request of the governor, twelve heavy guns of different calibres had been mounted, horsed and manned, and were distributed along the shore, to aid in beating off any armed vessel that should venture within our waters in disregard of the interdict.

Dull details of legislation must weary the most patient reader ; and we forbear to dwell longer upon the proceedings of this long and busy session, which, after the passage of nearly one hundred acts and as many resolves, came to a close on the twelfth of March. Expenses of government in all departments of the public service were far less than at present ; the whole expenses of the year being only one hundred and thirty thousand dollars.

Few of the favorite projects of the republicans reached a successful issue. Indeed, during their brief tenure of power no time was permitted for bringing them to maturity. The betterment law and the jury act, the latter diminishing exemptions, and securing greater impartiality in selection, were their most commendable achievements. The court

of sessions, the enlargement of the jurisdiction of justices of the peace to twenty dollars, the appointment of county attorneys by the executive, the inspection of fish, regulation of licensed houses, and the turnpike act, were respectively the subjects of other useful enactments.

Among those defeated or deferred were the religious liberty bill, land office, bank, institution for annuities, road acts, indemnity to original holders of revolutionary scrip, and a general revision of the poor laws. Their militia law, revised at the suggestion of the governor, was not carried through at this time; but the following session a committee of federalists, appointed to improve upon their labors, reported the act of 1809, chapter 108. This long continued in force, and furnished the ground-work of the present system.

Reports upon the feasibility of connecting Boston and Long Island Sound by a deep water canal from Weymouth to Taunton River; asserting that conversation in the legislature, on subjects under consideration, is equally privileged with debate from legal prosecution for slander; and another, reviewing Judge Parsons' charge to the grand jury, prior to the Selfridge trial, form interesting portions of the printed journal. Several other executive messages, besides those enumerated, are to be also found in its pages; some of which are of interest. Solicitude that Massachusetts should be in a state of becoming preparation, in the event of war, then thought to be approaching, affords some explanation for their frequency.

CHAPTER IX.

ADMINISTRATION.

As the season approached for the annual election of state officers, James Sullivan and Levi Lincoln were again selected as the republican candidates. Under the date of twenty-first of February, 1808, the former writes as follows to his friend, General Dearborn, at Washington: "I am much obliged by your favors. To know that my speech and my late proclamation are approved by you, by my other friends at the seat of government, and the friends of the present national administration, cannot fail to afford me a singular pleasure. I have no interest to serve but that of my country. I am now an old man. The office I hold does me high honor, because the men whose approbation I esteem approve of my administration at this very important crisis. I am waited upon by a committee, consisting of the president of the senate, the speaker of the house and Mr. King, with the information that the republicans have met, and unanimously agreed to request me to stand a candidate for the chair another year. I have answered them, that the support which I have had amidst the cruel persecutions of the federalists has bound me to be at their disposal. Yet, could it be done without hazarding the republican cause, I should rather retire into obscurity, than to endure the conflict which daily occurs. Was there nothing but the incidental occurrences of different opinions, all might be overcome; but where there is

an eternal speculation for offices, for the gratification of resentment and revenge, the business is too perplexing for a man of my size of mind."

On the eighth of May he thus reports the result of the election: "You are no doubt anxious in regard to the elections of this state. The governor and lieutenant-governor are chosen by about three thousand majority; the federal scrutiny may reduce this majority three or four hundred. There are twenty senators chosen on the federal side; seventeen on the other. The twenty can make a scrutiny, as has been done in other cases, to exclude the republican candidates. This will be done so as to gain a majority of one at least on the British side in the senate. The federalists have strong hopes of a majority in the house; but, if they are disappointed, they can deceive and divide the republicans, on a choice of officers, banks, canals, turnpikes, bridges and other favorite measures, by engaging to aid them, by way of remuneration for their votes, so that they will be able, as they did last year, to carry every point that they choose.

"I inclose a letter written by me to Colonel Pickering, on the eighteenth of March, which he published himself, with notes. The pamphlet I send Mr. Madison, with a request to show that and my letter to you. I have no objection to your communicating this to him. We are certainly on the verge of a revolution. Whether the federalists gain a majority or not, in our legislature, they will pursue the complaints ostensibly made by Pickering, but really made and published by them all, prevailing on the people to believe that our government is making the United States a province of France, and that an alliance, offensive and defensive, with England, *on her own generous and fair terms*, is our only safety. The English have ten thousand troops and eight ships at Halifax. The ministry, in the house of lords, and their party, old Mr. Rose especially, openly avow their intentions to regain the United States,

or the northern part of them at least, as provinces. They say we are corrupt, extravagant and luxurious; that money is our God; that we are all to be bought with money; that a ship in each harbor would destroy our commerce; and that a small land army would gain sufficient strength from the opposers of the administration here to conquer a country where there is no army, no fortress, and where pecuniary speculation is the only concern."

Throughout this correspondence, and in other writings of his at this period, may be observed profound distrust of British influence, stern denunciations of federalist writers who undertook to palliate British aggressions. How much of this feeling was old revolutionary jealousy against tories now again revived, how far party or national bias warped his judgment, we do not profess to decide. Similar sentiments extensively prevailed among men too candid and generous to readily credit imputations upon others without some degree of proof. Probably there existed nowhere a class, sufficiently numerous and influential to be dangerous, who, upon sober second thought, would have willingly returned under British allegiance. But statesmen from Virginia had monopolized all control of public affairs; they would have had America self-dependent, self-sustaining, confined to its fields and factories, raising its own food, weaving its own garments. They respected little, perhaps envied much, those fertile farms over all the seas, whence northern hardihood reaped its plentiful harvests, and would have sacrificed the most vital interests of commerce to what, in the keen perception of the victims, were evident fallacies in political science. Irritated beyond endurance by measures seemingly neither called for nor rational, and which, through the ignorance or suspected malice of their inventors, were considered fraught with more mischief to ourselves than to those at whom they were professedly aimed, there were not wanting many who began to calculate the value of our boasted

institutions, or who thought they had been already sufficiently tested, and that the experiment had failed.

Many worthy and highly respected citizens in Massachusetts, as elsewhere, while loyal to their own country, were still warmly attached to the land of their fathers. The customs and literature of Great Britain, her history and fame, were their inheritance; their kindred were still among her people; their ancestors slumbered beneath the shadows of her church. Political separation had not chilled the sympathies growing out of community of race; and commercial intercourse, emulous and reciprocating, had long since reunited the friendly ties which had been severed by the mistaken policy of her ministers, or the injustice of Parliament. With institutions as free as her position towards the continent permitted, the best interests of society, as far as they depended upon political liberty, seemed alike the care of both nations; and, engaged as she now was, single-handed, in a struggle with all the rest of Europe, many an American bosom glowed with affectionate pride at her courage and achievements. If, forgetful of their new obligations, some individuals among us were inclined to extenuate injustice unavoidable in a situation so difficult as hers, and which, upon our own part, might be considered not wholly unprovoked; if a few even went further, and wished they might again become the subjects of Great Britain, and share in its perils and its glory; now that such sentiments have ceased to be dangerous they are no longer open to reproach:

Nations, as individuals, are under the guidance of Providence, and it is idle to speculate as to what might have been under different contingencies. Yet, had England shown a more conciliatory spirit, and been disposed to cultivate a good understanding, upon a footing of equality with America, it seems safe to assert that, the moment Bonaparte set at naught all hopes of constitutional freedom in Europe, a large majority of our citizens would have

been responsive to her advances, and their friendly dispositions contributed materially to her strength.

Such, unfortunately, were not the views of her government, probably for the reason they were not the prevailing sentiment of her people. Persisting in her aggressive policy, and all efforts at negotiation having proved unavailing, resistance had become for us the only alternative consistent with national honor. At such a crisis, for American citizens to palliate her conduct, might be justly regarded as disloyalty to their own country. That, in some cases, this disloyalty degenerated into designs bordering on treason, was not merely matter of suspicion, but for actual belief. The evidence on which it rested may not have been proof, yet enough to command attention and to justify vigilance. Although in reality groundless, jealousies dictated by solicitude for the general welfare, and not attended by injustice to any individual, ought not to be condemned in those to whom was entrusted the public security.

If, as retorted on Sullivan, he had himself been indefatigable, ten years before, in deprecating and preventing hostilities with France, there was little inconsistency in this. For aid granted to our Revolution by her king, because such was the wish of his people, we had guaranteed to her the possession of her colonies, and facilities in our ports for her cruisers. This compact was with the nation, and not with the monarch, and the treaty with England had violated, not merely its spirit, but express stipulations. War would only aggravate the wrong, and negotiation, whenever opening offered, coincided with the dictates of both justice and honor. We could now be fairly chargeable with no injustice to either belligerent, but were ourselves the parties aggrieved. He would have been the last to discourage discussion of the subject within reasonable limits; but, in censuring sentiments he thought disloyal, he but exercised a privilege liberally improved by his ancient opponents. He simply did his duty, as they no doubt supposed they

were doing theirs, according to their light, when they stigmatized his opinions, and those of others as zealously patriotic as themselves, as disorganizing, radical and Jacobin.*

Not many months elapsed after the passage of the embargo before New England began to experience all its deplorable consequences. Her navigation for many years had been greatly extended and lucrative. The carrying trade of Europe had become tributary to her prosperity, and whatever was touched by her commerce had turned into gold. Extraordinary profits afforded heavy premiums of insurance, and individuals of all classes, as underwriters, were enabled to participate. Colossal fortunes were accumulated almost without an effort, and, success stimulating a speculating spirit, numbers deserted the walks of steady toil to embark in adventure, where the result but rarely disappointed expectation.

All this was now changed. Commercial adventure, carefully planned, and rich in promise, had been stayed in the

* When discontent at the cabinet measures had reached its height, a gentleman from Canada, of agreeable manners and pleasing address, visited Boston. He was hospitably entertained by several of the principal federalists; and, at the festal board, when the nutty old Madeiras, for which Boston and Charleston have both been ever with justice alike distinguished, had circulated freely, the songs and toasts indicated much loyalty to England, but none at all to Mr. Jefferson. To talk treason became the fashion; and many influential merchants, smarting under the commercial restrictions which had blighted their full-grown prosperity to its very roots, naturally fell into the use of strong expressions. The journals reflected the sentiments of their readers, and gave abundant reason to the republicans for jealousy as to what was intended. The gentleman alluded to was looked upon by them as an emissary of the English government, and his conduct was such as to justify some suspicion. But, if any serious projects of disunion ever existed *before dinner*, they were greatly exaggerated, and no evidence has since transpired to fasten the imputation upon any one. The fifty thousand dollars, paid at a later day to Mr. Henry, proved how little such appearances are to be relied upon, and the story told Mr. Jefferson by Colonel Hitchburn, impeaching indirectly the loyalty of four of the purest among the patriots, was too palpable an absurdity, to all familiar with the irreproachable character the individuals alluded to bore where they were known, for credulity itself to believe.

midst of preparation. The ships, which had whitened the ocean, rotted at the wharves. Valuable merchandise, perishable by nature, decayed in the store-house. Merchants, who had grown old in successful enterprise, reduced to the verge of bankruptcy, unexpectedly found their families threatened with poverty, and their names with a discredit which commercial honor dreaded more than impoverishment. Before the embargo was raised, four fifths of our commercial classes, according to tradition, became insolvent; and many of them, no bankrupt law existing, were unable to extricate themselves from their embarrassments, and passed the rest of their days in want and humiliation.

Those who relied upon the prosperity of trade for daily labor and subsistence were thrown out of employment; and charity, deprived of its ordinary resources, furnished inadequate relief to its numerous applicants. Luxuries from abroad, which from habit were indispensable to the aged and feeble, rose rapidly above the straitened means on which they depended. Real estate rapidly depreciated, grass grew amid the pavements of populous seaports, and the inhabitants, too disconsolate to be amused, passed their idle days in profitless regrets, or in angry vituperation at the originators of this wide-spread calamity.

Boston, which had largely shared in the preceding benefits of neutrality, was now the especial victim of the embargo; and among the sufferers were those who had been most extensively engaged in trade, and were the most influential in the community. Of these many were the familiar associates and friends of Governor Sullivan; but, fortunately for his peace of mind, they could not hold him responsible in any way for their distress. His son William, in the Familiar Letters, says, and his remark is fully confirmed by abundant other evidence, "It was not to be disputed his father was much dissatisfied by the course of policy adopted by the leaders of the party to which he belonged. He was

so especially with the embargo, and with the measures to enforce that system."

Under another act of Congress, in April, the president was empowered to appoint agents, who should grant licenses to transport along the coast flour from one American seaport to any other where it might be needed. These were to be given to persons, not likely to misuse the privilege, for purposes of exportation; and it was supposed to have been intended by the government that they should be given only to the supporters of the administration. Soon after, the president delegated this power to the governors of New Orleans, Georgia, South Carolina, New Hampshire and Massachusetts, and later to others, whom the federalists styled "dispensers of favors, and masters of starvation." The president estimated the number of persons in the commonwealth, who were dependent upon flour from other states, as one hundred thousand, and their consumption, upon an average, at one pound each, daily. He was thus willing to allow us about two hundred thousand barrels for the year, and manifested some impatience when the amount permitted during the first quarter had reached nearly half that quantity. Governor Sullivan ordered permits to be granted to all bringing evidence of honest intentions; and his impartiality in the discharge of this delicate trust secured approbation from all parties. He hastened to discharge himself from this invidious responsibility upon the first favorable opportunity; and, upon the plea of arrangements he had made for visiting the western counties of the state, wrote Mr. Jefferson, in August, to request him to select another for the post.

The embargo received the assent of Congress as a temporary expedient. It had failed to accomplish its object in inducing the revocation of the offensive orders and decrees; yet the pride both of rulers and people forbade its immediate abandonment. "If abortive in its main purpose, it had," as Jefferson wrote Langdon, "given time

to call home two thousand of our vessels, with thirty thousand seamen, and eighty millions of property. It encouraged the hope," to use his expression, "that the whale of the ocean would tire of the solitude he had made on that element, and return to honest principles; and that his brother robber on the land would see that as to us the grapes were sour." Despatches from our ministers abroad encouraged its continuance as already producing some effect in Europe. Interruption of intercourse, preventing remittances, had greatly embarrassed English merchants, to whom our own were largely indebted. Cotton and tobacco had enhanced in price, and, as summer advanced, short wheat crops began to be apprehended. Canning had grown cordial, almost conciliatory, and, though still tenacious on the subject of impressment and the orders, gave Pinckney some reason to hope accommodation. Armstrong, from Paris, reported Bonaparte inflexible, refusing all relaxation of his decrees, unless *pari passu* with England. He declared other nations must be his foes or his allies, and, in proof of his sincerity, confiscated seventeen millions of neutral property, most of which was American. Our condition increased in embarrassment. War even, as a relief from existing distress, seemed to have eluded our grasp; and the event, irretrievably entangled amidst the meshes of diplomacy, to defy all calculation. Measures of precaution and preparation government owed to public security; and some inadequate exertions were made to fortify the principal seaports.

Discomfort seeks relief in change, and now, prevailing generally among all classes, affected the elections. The vote for governor, after a federal scrutiny had discarded returns from plantations, and many besides to which objection could be made, was eighty-one thousand one hundred and forty-seven, of which James Sullivan received an unquestioned majority. This majority fell short about six hundred of that of the preceding year; though in Boston

that in favor of his present antagonist, Christopher Gore, was nearly that number less than Caleb Strong's in 1807. His plurality was this year two thousand six hundred and twenty-one; the last, two thousand seven hundred and thirty. Levi Lincoln was re-chosen lieutenant-governor.

During the canvass the Repertory and other federal newspapers confined their electioneering efforts to encomiums upon their own candidates; and when they mention Governor Sullivan it is invariably with respect. This may not have been equally true throughout the state, as, among the multiplicity of newspapers published at the time, all have not been preserved, and, of those that have, not more than eight or ten have been carefully examined. The Pickering correspondence occupied a prominent place in the canvass, but the course taken by the governor does not appear to have diminished his vote.

The legislature met on the twenty-fifth of May. In consequence of the embargo, and some divisions among their opponents, the federalists preponderated in both branches. In the senate, Harrison Gray Otis was chosen president by nineteen votes out of thirty-seven; in the house, Timothy Bigelow, speaker, by two hundred and fifty-two votes out of four hundred and seventy-six. General Cobb, George Cabot, Artemas Ward, Benjamin Pickman, Prentiss Mellen, Oliver Fiske, Ephraim Spooner, Thomas Dwight and Edward H. Robbins, were chosen councillors. Josiah Dwight was made treasurer in the place of General Skinner, and William Tudor succeeded Jonathan L. Austin as secretary of state.

On the seventh of June the governor made his usual speech to the court, which occupied nearly two hours in its delivery. It was principally confined to the subject of the embargo, and gave a full and detailed statement of the various orders in council, and imperial decrees, which had led to the measure. He said that, in the existing critical condition of affairs, the people stood anxiously waiting for

that intelligence which a speech from the chair and the replies of the two houses would give them. Holding in respect the morality and policy of the Declaration of Independence as the foundation of our national and state constitutions, he considered the farewell address of Washington as the perfect creed of American politics.

In their relations with other powers they had to complain, not only of the infractions of treaty stipulations, but of the violation of international law, and both France and England acknowledged paper blockades to be illegal. In this intricate and perplexed situation, a false step, an erroneous calculation, or a fallacious expectation of foreign aid, might involve them and their posterity in irretrievable misery and disgrace.

Independent sovereignty was the vital principle of national existence ; and all nations, whatever might be the advantages of one over another as to climate, numbers, wealth or force, as respected their independence, must be regarded as on the same grade of perfect equality. No nation had ever placed the hopes of maintaining its independence on another, but had been reduced to conquest and misery. Our safety was in union. Washington had experienced its benefits in the Revolution ; for, if the smallest state had then withdrawn from the confederation, it would have deranged and probably defeated every effort. The opposition of a state to the central government would create a national anarchy, an evil far more dangerous and distressing than that resulting from ordinary commotions, because the states had already organized governments of their own. The scenes of blood and carnage in other countries admonished them to place their trust in the national administration in all concerns delegated to its care, and to restrict the state to those lines of power which were designated when the federal government was carved out of them.

The nations interrupting our trade were actuated, not

by enmity, but by self-interest. Still they were to be treated as enemies, for we could neither resign our commerce nor our neutral flag to their direction. No price was too great to be paid for independence ; no calamity so dreadful as subjection to a foreign power. The nations of Europe had an excess of population maintained by manufactures they could not afford to consume themselves. The United States exhibited a pleasing contrast. Spreading themselves through every climate, including every soil, and possessing every advantage of navigation, delighting in that commerce which returned the gold and fabrics of other nations for our raw materials, the energies of our innate enterprise must still increase. Europe would not be so incautious as to urge us to the habit of wearing our own wool, or of weaving our own cotton and flax ; of opening the bosom of the earth for the iron and coal with which she could furnish us, or of feeding upon the sugar of our own cane, or the milk of our own kine, instead of foreign luxuries.

Whilst wishing for peace, we must provide for war. Six hundred thousand men were to be raised ; our seaports were to be fortified. If our enemies relied upon our own factions and divisions, they would be deceived. Neither the misuse of the press, nor party dissensions, nor the opprobrious epithets adopted from the warm breath of partisans, evinced any actual hostility to national freedom, and in case of war we should all be united. When under the crown, complaints of violated charter rights were without intermission ; but our independence had rolled on the smiling anniversaries of more than thirty years, and this country exhibited greater quiet, less commotion, more security to life and property, and less oppression by taxes, than any other on the globe.

The embargo was undoubtedly a great calamity ; but as it was necessary to save our commerce from the unprovoked depredations of two mighty powers, and to preserve the nation, if possible, from the calamity of a foreign war, it

was our duty to submit. The idea of a perpetual embargo was inadmissible. If without result, the question would remain whether our vessels should traverse the ocean unprotected, or be defended by our artillery. The interruption of commerce had naturally created in this commonwealth great anxiety and jealousy of the administration. With seven hundred miles of seaboard, principally full of inhabitants engaged in commerce and navigation, it had nevertheless exhibited, under its pressure, a tranquillity and good order, that could flow from no other source than an enlightened understanding, and pure love of liberty conducted by law and government. If within the power of legislation, he should gladly coöperate in any measures that could be devised to ameliorate the condition of the people during its continuance.

The act had been intended as an expedient to induce other nations to leave our rights entire, and not involve our trade in the depredations of their wars. It was easy to conceive that the appearance of divisions amongst ourselves on the propriety of the measure, if realized in Europe, might prevent one of the valuable effects intended to be produced by it; but if the belligerents, misled by the press, should rely on appearances of this nature, they would be disappointed. Our nation would not yield its independence, or become tributary to any other power. In this solemn appeal to Heaven we would rely, under God, upon our internal strength, and in our own unconquerable situation, and defend ourselves with that energy unanimity alone could produce.

Of the committee selected by the house to respond, Colonel Thacher was chairman; of that in the senate, James Lloyd. Both replies were eloquent productions, alike expressing preference for war to a longer continuation of the embargo. To evince their displeasure with John Quincy Adams for sustaining the government, the court went into the election of his successor somewhat earlier than usual.

They chose James Lloyd senator in his place for the six years from the fourth of March, and, upon this Mr. Adams resigning, for the remainder also of the current term.

The session was short, ending on the tenth. Resolutions were introduced by Mr. Wheaton expressive of sentiments directly the reverse of those of Mr. Ripley, the preceding session, upon the subject of the embargo, and were passed by a vote of two hundred and forty-eight to two hundred and nineteen. One hundred and sixty-eight republicans entered on the journal their protest against them. An act was passed repealing the late jury law; but this was vetoed by the governor. Many private acts received his signature; and one of general importance, providing that the banks should not issue bills for less than five dollars to an amount greater than fifteen per cent. of their respective capitals. As this was not to affect any vested right, it had a very restricted application. Finding the court pressing to adjourn without taking order for the choice of presidential electors, the governor sent them, on the ninth of June, the following message, in which he says: "I have just received your message by your committee, informing me that you are not now detained by the public concerns of the commonwealth, and request to be adjourned to the second Thursday of November next.

"I have not observed amongst the acts and resolves of this session, any order, bill or resolves, of the legislature, directing the manner of appointing electors of president and vice-president of the United States. The constitution of the United States provides that 'Congress may determine the time of choosing electors of president and vice-president.' The act of Congress, passed on the first day of March, 1792, provides that the electors shall meet on the first Wednesday in December; and shall have been appointed within thirty-four days then next preceding. The day you propose to be adjourned to appears to have been fixed upon under an idea that the legislature will

direct that the manner of appointing the electors shall be by the senate and house of representatives, and not by the people; because there will not be time between the day you propose to be adjourned to and the first Wednesday in December for provision to be made by law for it, and for the people to choose, in either districts, or by a general ticket. This mode of appointment has no other authority but these words in the constitution: 'Each state shall appoint, in such manner as the legislature thereof shall direct, a number of electors.' The legislature of Massachusetts, in 1788, by a resolve in usual form, ordered the appointment to be by the choice of the people in districts. In 1792, the appointment was made in the same manner; and the same was again adopted by a formal resolve in 1796. At the giving in the votes the selectmen of the towns, and assessors of plantations, presided, and counted and recorded the votes in open meetings. In 1800, a resolve was passed by the senate and house of representatives, and approved and signed by the governor, that the General Court, on the thirteenth of November would, by joint ballot of the senate and house of representatives, elect and choose sixteen persons as electors of president and vice-president of the United States. The election or appointment of electors, in the year 1804, was by the votes of the people in a general ticket throughout the state; in which the selectmen and assessors were to warn the meetings and preside as before. This was done by a formal resolve, taking force in five days, as the governor neglected it. Should I now accede to the adjournment you propose, of making any suggestions of difficulties that may arise from the manner in which you may find yourselves obliged to appoint electors, it might be considered that I ought then to be foreclosed; because that a consent to the adjournment would, by fair implication, be proof of my having previously consented to the mode.

"But, should you continue your request to be so

adjourned, without having previously provided for the appointment of electors, the way will be fairly open for any objections which I shall then feel myself obliged to make. I do not attempt to state any objection to the appointment of electors by the two houses, or even to say that I shall make any; but, having been always an enthusiast in the principles of an elective republic, I have regarded with pleasure the barriers placed round the election of our national chief magistrate by the constitution and the law. The constitution provides that the electors shall give in their votes on the same day throughout the United States. The law provides that the day shall be the first Wednesday in December, and within thirty-four days after the electors are appointed. This is evidently intended to prevent foreign influence, as well as combinations between the electors of different states, and the parties under whose influence they are. There can be no doubt in the mind of any one acquainted with the present General Court, but that the exercise of the power to appoint electors themselves would be with great fairness and impartiality; but it is an old and useful observation that the doing of good by incorrect or wrong means has a more dangerous tendency than doing wrong. I can conceive that if we should be continued under an elective republic, strong parties may produce a senate and house of representatives, who, in the month of June, may know the strength of each side, and who may then, under a resolution to appoint the electors themselves, ascertain the names of the electors as accurately as they shall be known after their appointment. In this way the benefits intended by the constitution and laws, for guarding the purity of the election of the first national magistrate, will be subverted. There are many towns and plantations which could not choose representatives, and therefore are deprived of that privilege which they would have according to the manner of appointing electors in the four former elections. Nor is there, that I

know of, any reason to believe that, when the present senate and house were elected, their constituents had an expectation that the General Court would appoint electors themselves."

The court did not see fit to comply with the governor's recommendation, and adhered to their conclusion to defer the choice of electors to a session in November. Their work apparently completed, many of the members returned to their homes; and, on Monday, the last morning of the session, it chanced that, of those remaining, the republicans had a majority. Rather, in all probability, with a view of disturbing the equanimity of their opponents, than from any serious intention of taking an unfair advantage of their opportunity, it was proposed to nullify all the measures of the federalists. No progress, however, had been made, if any had been intended, when Judge Tudor, the secretary, arrived from the council-chamber, with the governor's message of adjournment. This was, of course, charged upon the republicans by the other side as a plot, but very obviously with entire injustice.

The weather had been for some weeks stormy and wet; and the Chronicle tells us that the only sunshine was while the governor was taking his oath. His constitution already began to show symptoms of a strong man failing; and the necessary exposure to the elements affected seriously his health.* He took part, nevertheless, in the usual ceremo-

* As the exposure to cold and wet, incident to his office, undoubtedly accelerated the effect of disease, we insert the following, as it serves to indicate one principal cause of its rapid progress in breaking up his constitution: "Though we do not incline to be superstitious, yet the circumstance of the peculiar state of the weather, if it does not denote some remarkably unfavorable events, cannot to the speculative observer but excite some notice. If the stars have been favorable, in the opinion of lawyer Wheaton, to the success of federalism, the sun and moon have shown a disgust at the event. Neither of them have shone with lustre since the morning of the election, excepting during the intermediate space of deciding on the choice of governor and lieutenant-governor, and of the time of their being sworn into office. While the votes were counting, and

nials, including that of the Ancient and Honorable dinner and parade, which last was, according to custom, on the Common, that of the previous year having been, on account of the heavy rain, under cover. On the fourth of July John Adams and Robert Treat Paine, signers of the Declaration of Independence, participated with him in the state celebration. But he was unable to join in the civic procession, or to hear the oration delivered by Andrew Ritchie.

That same day, in the morning, Fisher Ames, the distinguished statesman, orator and writer, died at Dedham. He was the first of the honored patriots, the others being John Adams, Thomas Jefferson and James Monroe, whose lives, devoted to the service of their country, were permitted to terminate amidst the festal rejoicings commemorating its political nativity. His remains,

the event hung doubtful, the sun, moon and stars, were clothed with sackcloth, and the clouds shed tears like Rachel weeping for her firstborn. But, when the choice was decided, and republicanism had passed the ordeal of federal scrutiny, the whole planetary system resumed its wonted cheerfulness, and nature put on her most beautiful attire. The republicans began to congratulate each other on the restoration of the benign display of the joyous spring, and anticipated the continuance of that pleasurable scene which usually enlivens the enchanting prospect from the state-house. But, alas! how soon was the whole changed! At four o'clock (the hour assigned to consider Wheaton's resolutions) the heavens began to blacken, the clouds to thicken, the winds to blow, and all nature seemed in one general convulsion. The resolutions were accompanied with thunder and lightning, and the sky was covered with its sable mantle during the continuance of the whole debate. The rain descended in such torrents that all the members, on the adjournment, were *embargoed* for many hours within the walls of the state-house. Even lawyer Wheaton himself was seen amid the crowd, and seemed like 'Patience on a monument smiling at grief.' The sun set with a gloomy aspect, and the moon did not show her light in the evening. An uncommon cold morning ensued, and the weather of the following day was more like the chilling blasts of December than the salubrious air of June. If this is the effect of federalism, may we not next year suffer ourselves to be exposed to such an inclemency! May the republicans rally, not only to restore the order of nature, but to gain their merited ascendancy. The sun will smile on our efforts, and all nature will welcome the return of republicanism, after the gloomy period of federalism."

brought to the capital and deposited at the house of Christopher Gore, at the head of Park-street, were there visited by his numerous admirers and friends. His obsequies were solemnized on a scale appropriate to the place he had filled in the esteem and affection of the federalists, and Mr. Dexter delivered the eulogy, which, being extemporaneous, has only been partially preserved. His writings, prefaced by a much-admired memoir, prepared by Dr. Kirkland, were published at the time, and again, recently, with an additional volume, containing his correspondence. Many of his essays were strongly tinged by party prejudice, and show a distrust of the working of our democratic institutions not justified by subsequent experience. From their purity of style, general good sense and elevated patriotism, they must continue long to be valued, and will constitute the noblest monument of a name indissolubly linked with the national annals.

A few days later transpired an event causing the greatest mortification and grief throughout the ranks of the republicans. It had been discovered, by the committee appointed to examine the account of the late treasurer, that he could not make good his balance to the state by some seventy thousand dollars. This officer, though chosen annually, by law might be reëlected for five successive terms. The late incumbent had been in Congress, a prominent candidate for the federal senate, a major-general, and was possessed of large estates in the county of Berkshire. When the republicans came into power, in 1806, they had chosen him in the place of Jonathan Jackson. Tempted into speculation, he had mingled the state moneys with his own, and the general depreciation of property had made him a bankrupt. His sureties, twelve in number, had given bonds for his fidelity to the amount of one hundred thousand dollars, and the principal portion of his deficiencies was eventually made good to the state treasury. Overwhelmed with disgrace, the unhappy man sank rapidly

away, and, before two years, death had prematurely ended his wretchedness, as also that of his son, who followed him at a short interval, broken-hearted, to the grave.

In August, the discontents under the general stagnation of trade becoming intolerable, meetings were held in Boston to deliberate upon some measures of relief. A committee was appointed to address the other towns of the commonwealth upon the subject of their grievances, as in the days of the Revolution and at subsequent periods of trial and excitement, and numerous responses, expressive of distress and resentment, poured in from all quarters. Forcible resistance to the law was openly threatened, and, had it not been for energetic demonstrations on the part of the government, would probably have been attempted. Large quantities of merchandise were smuggled across the frontier from the British provinces, and three men were shot in conflict between the smugglers and the officers. The constitutionality of the act was questioned, but in a trial at Salem before the federal court, was ably vindicated by Dexter, in a masterly argument, and sustained by Judge Davis.

When Congress met, in October, Josiah Quincy and other federalists strove with glowing eloquence, but in vain, to soften the stony hearts of Jefferson and his supporters, and in January a more stringent act than those which had preceded filled to overflowing the cup of suffering and forbearance. It was only when convinced that to persist would endanger the Union, without bending the obduracy of the belligerents, that Congress decided to abandon the system upon the close of Jefferson's administration, on the fourth of March, and to try in its place a plan of nonintercourse with England and France, reöpening the trade with all other countries. For three years longer we submitted with patience to every variety of annoyance, either belligerent in turn tempting us by conciliatory measures to abandon our neutrality, and enter into her alliance. Finally,

in 1812, another embargo, of sixty days, was what an embargo should be, a precursor of war, and for two years we contended with various fortune on land and sea. If not successful in inducing England to relinquish her pretension of taking seamen from our merchantmen, we proved we were no longer degenerate from her parental example, and that, when the occasion demanded, we were willing to appeal to that last of all reasons, the arbitrament of arms, in vindication of our national honor.

In the intercourse of Governor Sullivan with his new council, all of whom, excepting the lieutenant-governor, were his political opponents, the greatest harmony prevailed. He observed to a friend that he had less controversy with them than with that of the preceding year, all of whom were democrats. They had urged him to remove from office worthy incumbents, on the score of political opinion, in order to make room for republicans, demanding this as due to his party; and his unwillingness to yield to their solicitations created much discontent. In some instances, where there were no suitable persons in the counties, he had even appointed federalists to responsible posts, and from among them, where no suitable republican lawyers were to be found, had taken several of the county-attorneys. Indeed, in the exercise of all his duties, he strove to be as impartial as due regard for party obligations permitted; and when he died his adversaries and friends alike were ready to admit that he had been both just and generous in the use of his official patronage. The former, in reply to Governor Lincoln's speech, in the following January, bore the following testimony to his course in this particular: "Elevated to the chair of state," it says, "in opposition to the sentiments of a majority of the legislature, we are happy to declare that Governor Sullivan, in the discharge of its high and important functions, appeared rather desirous to be the governor of Massachusetts than the leader of a party, or the vindictive champion of its cause."

For many weeks of the summer he was confined by illness to the house. On the commencement day of the university, escorted by two troops of horse, one from Roxbury and the other from Boston, who had volunteered their services, he went to Cambridge, but, unable to remain, soon returned home. Occasionally he was able to drive out; but the malady, of which we presently shall give the particulars, had taken fast hold of his bodily frame, and disabled him from any active exertion.

In the intervals of official duty his pen continued indefatigably at work, and frequent traces of his lucubrations, on all the interesting topics of the day, are to be found in the *Chronicle* and other republican prints, not only in Boston, but in other places. One of his essays, filling several columns, presents a very complete view of our political situation; and another, in deprecating the consequences which must attend the renewed ascendancy of the federalists, closes as follows: "It would be but deceiving ourselves to suppose that a change in the administration is the only or the chief object contemplated by these friends of order. No, fellow-citizens, let this party but place themselves once more in power, and you have every reason to fear that a change more fatal to your liberties would take place. The venerable names of Washington and Adams would then afford but a feeble security to your republican systems. Brethren, this is by far the most interesting and solemn crisis which the nation has experienced since she commenced her existence. You are by the God of nature placed as the guardians of the liberty of posterity, and must be accountable for the manner in which you discharge this sacred trust. By all that is dear to the human heart, by the love you bear to posterity, and, above all, by the sacred obligations of religion, you are called upon to exert yourselves to save your country from threatened ruin. To contribute in the smallest degree to the support of this good cause will ever afford pleasure to Americanus." There is no doubt

he was sincere in his distrust of the federalists; but, from our own more dispassionate point of view, we cannot but think his apprehensions of either their disposition or power to change the political institutions of the country were without foundation.

On the ninth of November Governor Sullivan appointed the first of the succeeding month for thanksgiving day, by proclamation, as follows :

“It having ever been the laudable usage of the people of this commonwealth to set apart one day annually, as a day of thanksgiving and praise, to express by solemn acts of devotion the sense they have of the Divine favor for mercies received, and to supplicate the Author of every good and perfect gift, for hearts and tempers of mind to render them fit subjects of his needed blessings: I have thought fit to appoint, and by and with the consent of the council do hereby appoint and set apart, Thursday, the first day of December next, to be observed by the people of this commonwealth in solemn acts of devotion, as a day of prayer, praise and thanksgiving. And I do invite and exhort the good people, of every order and denomination of religion, to assemble on that day, in their usual places of public worship, and there, with holy fear and humble recollection, to acknowledge their entire dependence on the Almighty Sovereign of the universe for life and all its blessings, and to express their gratitude for the demonstration of his being and attributes in the works of creation and providence, and the more perfect revelation of himself in his holy Word.

“That while they publicly and devoutly recognize their entire dependence on him, they humbly implore of divine goodness the supply of such things as are necessary for their comfortable subsistence ; and especially that he would grant them contented minds and resigned hearts, in whatsoever circumstances and situations his providence may place them; that he will always have them in his holy

keeping and perfect protection, so that all their ways may be directed by his wisdom ; that they may exhibit in their lives such an obedience to the divine law as shall demonstrate their sincere desire that a regard to this law may become the governing principle of mankind ;

“That they earnestly beseech him to inspire the people with such sentiments of national honor as shall cement and strengthen the union of these states ; that his merciful benediction may extend to all the labor of our hands ; that all illegal and unjust or undue restraints may be removed from their commerce, so that agriculture and the fisheries may prosper, and their navigation again traverse the ocean in safety ; that a friendly intercourse with all the nations of the world may be established and maintained with fairness and integrity ;

“That he would bless their university, their colleges and all their means of education, and that he would incline the hearts of all the people to promote the cause of virtue and religion, giving them zeal to exemplify and propagate the sublime principles and doctrines of the gospel, so that this divine religion may have its due influence and effect.

“I recommend it to the people to refrain from all labor and recreation, which may be incompatible with the solemnities of the said day.”

The legislature met on the tenth of November, according to their adjournment. Unable to meet them in person, the governor sent them this message : “The secretary of the commonwealth has, by your direction, informed me that a quorum of the senate and house of representatives have assembled, and are ready to proceed to the public business of the commonwealth, pursuant to the design of their adjournment. I congratulate the people of the state upon the assembling in health and safety of so many of their representatives. It would have given me inexpressible pleasure if, when I had met you, I could have offered my congratulations on a happy situation of our foreign rela-

tions ; but as that cannot be in our present condition, I shall leave the subject to the representatives of the people in the national government.

“The adjournment, which took place on the eleventh day of June last, was made from that day to this at your request, for the special purpose of choosing electors of president and vice-president, as well as for transacting any other business which might become necessary at this time. From this mode of expression it has been conceived by many that the senate and house intended to proceed in convention to the choice of electors themselves, in their legislative capacity, as appears by the resolutions of the inhabitants of many towns in the commonwealth ; with all, or the greatest part of which, you are, no doubt, already acquainted.

“I think it my duty to suggest to you that a choice by the people at large, or in districts, might have a tendency to obviate those objections, which otherwise may leave the state involved in uneasiness and contention ; and, from my acquaintance with the local situation of the commonwealth, I think the time now remaining, if candidly and properly improved, will be sufficient for that purpose. I therefore request your attention to a question of so much importance to the harmony of the government ; and I shall make every exertion in my power to effect an object so desirable.

“The state of the treasury, with some unfortunate circumstances which have lately appeared to attach themselves to it, shall be communicated to you by special message, and explained by special documents. Other documents concerning the government shall be laid before you as occasion shall offer ; and my attention shall be devoted to render the session agreeable to your constituents and pleasant to yourselves.”

The federalists were determined to secure the vote of Massachusetts for their candidates, Charles Cotesworth Pinckney and Rufus King. Having good reason to know

the majority of the people were republican, and fearful the governor would veto a resolve directing the choice of the federal college by the legislature, they concluded to disregard the evident intention of the constitution and all previous precedents, and provide for the election by an order, a form of procedure not requiring his signature. This departure from principle was alike injudicious and culpable, for the most sanguine even could not hope that the republican nominees could be defeated. Had they yielded to their natural sense of fairness, and followed the usual course, they would probably have found their apprehensions of a veto groundless. Disregard for the just claim of the people to express their preference in an affair of such magnitude as the selection of a national ruler, was unquestionably a grievous dereliction of principle. Yet, as he was but one of the coördinate branches of the legislature, to have assumed the control over the other two, in such a responsibility, would have been an unreasonable stretch of prerogative, and the governor would probably have remained passive and allowed the resolve to take effect without his signature, following the course of Governor Strong in 1804.

On the fourteenth, nineteen electors were chosen on joint ballot, the republicans entering their protest on the journals against the propriety of this mode of election. General Pinckney received of all the electoral votes but forty-seven; George Clinton, who was chosen vice-president, receiving six for the first office, and Mr. Madison, the successful candidate, one hundred and twenty-two.

In other instances, in the course of the session, the legislature deviated from the customary modes of proceeding by the substitution of orders for resolves, and in one case after a resolve had been vetoed. They passed resolves for repealing that of the last court on the subject of the embargo; and another at the same time assenting to the Vermont amendment for removing federal judges on address. Many acts of a private nature received his signa-

ture, and one of the last which he signed was to incorporate an academy at Limerick, a town of which he was one of the early proprietors, which he had personally engaged in clearing for settlement, and for which, at the request of his associates, he had selected the name. In returning them to the court he made the following communication:

"The several acts and resolves which, after having passed the two houses, have been laid before me, have all received my approbation, except a resolve for repealing a resolve passed on the second of March last, entitled a resolve instructing the senators and representatives of this state in Congress to endeavor to procure an amendment of the constitution of the United States, and for revoking and annulling the instructions therein contained; a resolve on the petition of Nathan Palmer and Eben Clifford, and another on the petition of Joseph Stone. One other resolve was laid before me at noon to-day, being a resolve for causing to be printed, for the uses and purposes therein mentioned, three thousand copies of the report of a committee, and resolutions thereon, adopted and passed by the house of representatives on the fifteenth instant. When I came to attend to this resolve, I found no such resolutions, either in manuscript or print, as those referred to by this resolve, and, upon application at the secretary's office, none such are to be found there. A respect I feel for your honorable houses urges me to make this communication. On the other resolves, before described, I shall not be able to determine till to-morrow or the next day. If I should return either of these with objections it might be the means of prolonging your session beyond the time convenient for you. I therefore submit it to your consideration whether, as the intermediate recess must be short, you will not send for and refer them over to the next session."

The candle was already near the socket, but burnt brightly on to the last. Judge Sullivan had been quick to

discern the stealthy footsteps of coming dissolution, and its nearer approach created no dismay. Endowed by nature with most vigorous bodily powers, the preservation of his health had never been permitted to interfere with his employments. At the age of sixteen, as mentioned in the earlier part of this narrative, he had been attacked by epilepsy, arising from sudden fright, and as he advanced in life its attacks became more frequent, and were induced by indigestion, fatigue, affections of the mind, dreams, and even by the sight of the reptile which originally produced the convulsions. In the beginning of 1807, he first experienced the indications of organic disease of the heart, which was now about to prove fatal. In November of that year the palpitations became frequent, and again towards the spring, increasing with the warm weather of the following summer. Occupation seemed to lessen the complaint, and render less frequent the attacks of epilepsy. In the intervals of relief his strength was good, and accompanied by a great flow of spirits and an aptitude or rather ardor for his business.

The paroxysms in August were particularly severe; but, relieved by medical treatment, the natural functions resumed their ordinary course, his appetite returned, and his enjoyment of social intercourse was unusually great. "He amused and instructed his friends by the immense treasures of information his talents and observation had afforded him, and which he seemed to feel would soon be lost." By the end of September the unfavorable symptoms returned, and for several weeks his distress and suffering were almost incessant, but again yielded upon the use of powerful remedies.

When the legislature assembled in November the call of business roused like magic the vigor of his mind, and the symptoms of disease almost disappeared. During the session he made little complaint, dictated many important communications, and attended to all the duties of his office without neglecting the most minute. Towards its close he

took final leave of his council, in a meeting of some hours at his house, and from their tearful eyes and saddened countenances, as they went away, it must have been one of more than ordinary interest. To all whom official business or the promptings of friendship or civility brought to his sick chamber, he manifested the same courteousness and warm cordiality of manner that had marked him when in health. Nor was he insensible, however great might be his bodily pain or debility, to other demonstrations of respect and kindness. On one occasion, when his sufferings were unusually poignant, a military corps, passing his house, stopped to pay their salute. Immediately leaving the couch, and hastily making the necessary preparations, he went out upon the balcony over his porch to testify his acknowledgment for this last attention to their commander-in-chief.

“When the legislature adjourned, he declared his work was finished, and that he had no desire to remain longer in the world. He requested no further means might be used to prolong his existence, and immediately yielded to the grasp of disease, which appeared waiting with impatience to inflict its agonies. From this moment the distressing difficulty of breathing had very slight remissions, and the animal powers grew sluggish and torpid. Yet once or twice the expiring faculties brightened, and on the thirtieth of November he aroused as if from death, conversed very pleasantly for two or three hours, and humorously described scenes witnessed in his youth.”

During all this long and protracted illness he was patient and uncomplaining. Unable to rest in a horizontal posture, his slumbers disturbed by sudden starts and distressing dreams, and his waking hours one long struggle for breath, and suffering only varied in form, he was submissive and affectionate to those about him, and strove to beguile the tediousness of his sleepless nights and the depression of his family and attendants by his own cheerfulness and agreeable conversation. With unfaltering faith in the good-

ness and mercy of his Creator, and that he would not be called upon to suffer more than he was well able to bear, death had no terrors for him.

“In all his relations with others his conduct had been exemplary. From his early youth he had been a believer in Christianity. He had felt the obligations of its duties, and participated in the enjoyment of its hopes. Its principles, operating upon a warm and affectionate heart, and manifested through life in filial piety, conjugal and parental affection, in his liberal charities and general benevolence, were also a staff and support to him in the last dread hour. Persuaded his disease was beyond the reach of medicine or human skill, he suffered with resignation and calmness, and often spoke with fervent gratitude of the consolations which he experienced; above all that his illness had not bereft him of his mind, and that he was permitted to close his long and laborious life in the bosom of his family with the unshaken assurance of renewing his existence in another and better world.”

In one of his letters, written at a period of affliction, he says: “I know that God has formed, that he guides and governs, this great universe, holding innumerable worlds in their orbs. I know that not one atom, from the worm that creeps in the dust, up to the highest created intelligence, can be out of his view, or committed for one moment to fortuitous events. Why this earth is the repository of pain and sorrow I know not. But I know that it is so, and that Jesus Christ is the great Physician, who mingles the draught, prescribes the regimen and pours the balm of comfort on the wounded soul. Blessed Redeemer, when he said, The cup my heavenly Father giveth me, shall I not drink of it? shall I, a sinner, say that I will refuse what he offers me? I will go in and out as when the candle of the Lord shined on my tabernacle. I will attempt to do the duties of a citizen, of a husband, of a Christian. Though he slay me I will trust in him, trying to say from my heart, ‘Father, not my will, but thine be done.’”

The Rev. Dr. Lowell, who, at his request, visited him in his last sickness, says: "I found him in his bed, apparently in possession of his mental faculties, and with a clear sense of his condition. What effect may have been produced on his mind by his physical state, or by any opiates that may have been exhibited by his medical attendants, I cannot say. He signified his entire submission to the will of God, and his humble hope of acceptance through the mediation of Jesus Christ. In reference to his past life, if he did not use the language, he expressed the sentiment, of the apostle, that he had the testimony of his conscience that in godly sincerity he had his conversation in the world. In the many instances in which, during my long ministry, I have stood by the bed where 'parting life was laid,' I know not where I have witnessed the exhibition of feelings more grateful to me than in the case of Governor Sullivan."

The scene was now drawing to a close. On the fourth of December he became again delirious; and this was followed by insensibility or great prostration, with periods, at less frequent intervals, of relief, and even of cheerfulness. The evening before his death, as his sons John and George were supporting his feeble frame from his chair to the bed, he spoke to them words of affection and encouragement. They left the chamber to seek some repose, as they had become exhausted by their constant attendance, and Colonel Welles, one of his aids, watched with him during the night. He did not again speak; but, on the following morning, Saturday, the tenth of December, breathed his last, at the age of sixty-four.

His medical attendant, Dr. John C. Warren, from whose valuable and most interesting work on Organic Diseases of the Heart, published in 1809, many of the foregoing particulars, and often in his own words, of Governor Sullivan's last illness have been taken, made a post mortem examina-

tion of the body, which entirely confirmed his previous diagnosis. He preserved the heart and brain, which, after nearly half a century, promise to endure for a very long period. Some slight attempt was made to embalm the body, but not so thoroughly as to warrant the belief in its present preservation.

His funeral took place on Friday, the sixteenth of December, with all the ceremonies usual where the chief magistrate of the state dies in office. Prayers were offered at the house in Summer-street, and the procession, attended by a numerous military escort, moved, at one o'clock, through the streets to the Granary Burial-ground. The pall-bearers were President Webber, of the university at Cambridge, General Elliot, Judge Parker, Artemas Ward, president of the council, Harrison G. Otis, president of the senate, and Timothy Bigelow, speaker of the house. The day was bright and cold, the streets thronged, and, those who remember the occasion speak of it as one of the most impressive solemnity. Whatever might have been the violence of party rancor, it ceased at the portals of the tomb; and all parties united in sincere mourning for the loss of one whose life had been spent in the public service, and marked by distinguished virtue.

His obituary, prepared by John Quincy Adams, appeared in the Chronicle on the day of the funeral; and, on the following Sunday, Mr. Buckminster delivered a most eloquent funeral discourse, which will be found in this volume.

This sketch of the public and private life of James Sullivan does not profess to be very complete. The desire has been simply to present a more full view of his career than has been presented in any previous notice, and to preserve from oblivion, for his descendants and any others who may feel interested, facts and circumstances which, if not recorded in print or collected together, might be easily forgotten. He was too much occupied in engrossing employments to take much care of his papers or correspond-

ence, and few materials for biography have escaped the dispersion and destruction of half a century. Should these volumes in some slight degree convey a knowledge of his useful and blameless career, and make his countrymen more familiar with a character which is believed to have many claims to their affectionate reverence, it will have answered its purpose.

Governor Sullivan was not insensible to the noblest weakness of the human heart, a wish to live in the grateful remembrance of posterity. It may be that, in the throng of able and virtuous patriots whose memories must be ever bright amidst the rising glories of our infant republic, his services will appear less conspicuous than those of many of his distinguished associates. Yet, as a principal leader with Hancock and Samuel Adams, Elbridge Gerry and James Warren, of early democracy in Massachusetts, whose interpretation of its principles and consistency of action will stand the most rigorous tests of reason and of patriotism, his desire may yet be gratified of holding an honorable place in her annals.

He writes: "Self-love attaches itself to, and places an undue estimate on, the things we possess, and we do not indulge with pleasure the reflection of being separated from them forever. As a balm to ease our feelings we pursue measures to render our names immortal, and to print the lines of our existence here as deep as possible, that generations far distant on the wheel of time, as they roll near and pass on, may recognize where we once have been."

OBITUARY.

BY JOHN QUINCY ADAMS.

To the number of citizens distinguished by their services to their country, who, having terminated their earthly career, no longer live but in the memory of their talents and virtues, must now be added the name of James Sullivan, late governor and commander-in-chief of this commonwealth; whose obsequies are this day to be attended with the usual solemnities, which have been observed on the decease of the chief magistrate, and with that manifestation of personal respect and attachment, which his character had inspired in all classes of his fellow-citizens.

He was the fourth son of Mr. John Sullivan, who, about the year 1723, came from Ireland to this country, and settled at Berwick in the district of Maine. This gentleman was descended from a respectable family, and had received a liberal education. By his personal care and tenderness the late Governor Sullivan was himself educated; and, having lived to the age of upwards of one hundred and five years, he enjoyed the most precious of all rewards to the heart of a father, the satisfaction of witnessing the fruits of his cares in the most affectionate return of filial gratitude, and in the usefulness and public eminence of his son.

Governor Sullivan was born at Berwick, on the twenty-second of April, 1744. After pursuing the study of the law under his brother, the late General John Sullivan, a name which also stands recorded with honor in the annals

of our Revolution, and as governor of the sister state of New Hampshire, he was admitted to the bar at twenty-one years of age. In a profession prolific of able men, he soon rose to celebrity, and, before the dissolution of the colonial government, he had been advanced to the rank of a barrister in the then superior court, and appointed king's attorney for the county in which he resided.

On the approach of the Revolution, which established the independence of this nation, he took an early, active and decided part on the side of his country. Being, in the year 1775, a member of the provincial Congress assembled at Watertown, he was, together with the late Hon. W. Spooner and J. Foster, entrusted with a difficult commission to Ticonderoga and Crown Point, for the execution of which that assembly manifested their satisfaction by a public vote of thanks to the commissioners.

He was in the same year appointed judge of the court of admiralty erected for the counties in the district of Maine; but never entered on the duties of this office, having been appointed early in the following year judge of the superior court.

After the adoption of our present state constitution, to the formation of which he contributed as a member of the convention which presented it to the people, he continued a judge of the supreme judicial court until February, 1782, when he resigned, and with a spirit of honorable independence returned to the practice of the bar.

In 1783 he was chosen by the General Court a delegate to represent the state of Massachusetts in Congress; and in the ensuing year served, with the late Judge Lowell and the present chief justice of the commonwealth, as a commissioner in the settlement of the controversy then existing between the states of Massachusetts and New York concerning their respective claims to the western lands.

He was repeatedly chosen to represent the town of Boston in the legislature in 1787, was a member of the

executive council; the same year judge of probate for the county of Suffolk; and in 1790 attorney-general, in which office he continued until June, 1807, when he was called to the chief magistracy of the commonwealth.

In 1796, he was appointed, by President Washington, agent under the fifth article of the British treaty for settling the boundaries between the United States and the British Provinces.

Such were the public stations, in which, during the course of his active life, he was placed by the steady and uninterrupted confidence of his country. Nor was he less conspicuous by the number of learned, charitable and public-spirited institutions, to which he gave his support, and from which he received marks of honorable notice. From the University at Cambridge he successively received an honorary degree and doctorate of laws. Of the American Academy of Arts and Sciences he was one of the members from its first institution; a principal founder and many years president of the Massachusetts Historical Society; president of the Massachusetts Congregational Charitable Society; and a member of the Humane Society. He was the projector of the Middlesex Canal, devoted to that object a great portion of his time and labor, and, from its first commencement until his decease, was president of the corporation.

The bare enumeration of the various relations in which Mr. Sullivan stood to his age and country has almost filled the measure which can here be allotted to the notice of his life. The public offices in which he served were all conferred by the free and unbiassed suffrages of his countrymen. As testimonials of his merit, they afford the clearest evidence of the satisfaction which he gave to the community in the discharge of their various duties. Supported by none of those artificial props which mediocrity derives from opulence, or family connections, every mark of distinction bestowed upon him was at once the proof

and reward of his superior endowments. The public stations which he held were not merely offices of profit or of honor; they were posts of laborious and indefatigable duty. They were filled with unquestionable ability, and if, in the course of a long political career, in times of turbulence and party bitterness, he did not always escape the common tribute of reproach, which accompanies all illustrious talents, his strongest opponents could never deny that his execution of every public trust was as distinguished by that peculiar quality which was most appropriate to its nature. To all he applied the most unwearied and active industry. As a judge, he was universally acknowledged to have displayed, without a whisper of exception, that first of all judicial virtues, impartiality. As the public prosecutor of the state, he tempered the sternness of official severity with the rarer tenderness of humanity. During a period of nearly forty years his practice at the bar was more various and extensive than that of any other man in the state, and there is, perhaps, not a family in the commonwealth but has witnessed, and we might almost say experienced, the ardent zeal and invariable fidelity with which he espoused the interests committed to his charge.

His style of eloquence was original, and adapted, with judicious discrimination, to the occasion, the subject, and to the tribunal before which it was called forth. Deeply versed in the general science of the law, and equally well acquainted with the sources of persuasion in the human mind, he was alike qualified for the investigation of the most intricate and complicated questions of legal discussion, and for the development of the tissues of fact before juries. The sagacity of his mind so justly adapted the course of his argument to the persons whom he addressed, that it may be questioned whether a public speaker has ever appeared in this state whose ascendancy over the minds of the juries of the country was so general and so permanent as his.

Amidst the great and constant pressure of business, public and private, which occupied him, by the discharge of his official duties, and by his practice at the bar, he still found time for the pursuits of literature and science. Various publications, relating to his profession, and to other objects which interested his affections, successively issued from his pen. The history of Land Titles set the first example of legal disquisition, tending to form a basis of a common law of our own; an example which, though necessarily imperfect in its execution, as must ever be the fortune of attempts to explore new and untrodden paths, by its prospective usefulness deserves to be mentioned with honor, and is highly worthy of imitation. The history of the District of Maine resulted from that affection for the land of his nativity, which prompted the ardent curiosity of his researches, and which ever impelled him to communicate as well as to do good. His treatises on the question relating to the suability of the states, on the constitutional liberty of the press, and on various other topics of political concernment, uniformly discovered his attachment to the principles of social order, and well regulated freedom; an attachment not satisfied with barren approbation, and the good wishes of indolence, but active, energetic, ever ready to contribute the effort of the mind and the labor of the pen to the purpose of public utility.

During the period while he presided over the government of the commonwealth, his administration was distinguished by the peculiar attention which he bestowed on the military institutions of the state, and the zeal with which he invigorated the spirit and improved the discipline of the militia. It was, also, remarkable by the moderation and equanimity with which he used his influence to temper the political divisions among the people. Considering himself as the delegated officer not of a party, but of the whole people, in the discharge of his duties he forgot all distinctions of political sects, and, without impairing the just

rights of any, earnestly exerted his powers to promote the interests, and to conciliate the dispositions, of all his fellow-citizens. In this honorable endeavor he was not without success, and among the sincere mourners at his departure will be numbered many of those who were the strenuous opponents of his elevation.

As an individual member of society, his character shines with milder, yet with an undiminished lustre. In all the relations of social life his conduct was exemplary. From his early youth he had been a sincere believer of Christianity. He felt the obligations of its duties; he participated in the enjoyment of its hopes; and its principles, operating upon a warm and affectionate heart, were manifested in that display of filial piety, of conjugal and parental affection, of active friendship, of liberal charity, of general benevolence, which circulates and diffuses throughout the circle of human society the choicest blessings of human existence.

In the long and distressing confinement which preceded his decease, though always aware that his disease was beyond the reach of medicine, or of human skill, he suffered with resignation and calmness, and scarcely ever was a complaint heard to escape from him. He often beguiled the tediousness of his sleepless nights with instructive and pleasant conversation. He often spoke with fervent gratitude of the consolations which he experienced; above all that his illness had not bereft him of his mind, and that he was permitted to close his long and laborious life in the bosom of his family, with the unshaken assurance of renewing his existence in another and a better world.

LETTER OF LIEUT.-GOV. LINCOLN TO MRS. SULLIVAN,
WITH HER REPLY.

COUNCIL-CHAMBER, *December 12, 1808.*

MADAM: The sorrowful event which has called the citizens of this commonwealth to mourn the death of their chief magistrate, having drawn together the surviving members of the supreme executive, they employ their first moment to express their deepest sympathies towards a bereaved family lamenting the loss of their dearest connexion and friend. Permit us, madam, officially and individually, to offer you our most respectful and cordial condolence on so melancholy and trying an occasion, and to tender for your comfort, your health and your happiness, our prayers and best wishes.

It being in a high degree proper that public honors should be paid to his remains, as chief magistrate, it is requested that the family of the deceased will assign to the executive the disposal of those remains, for the purpose of being interred with such respectful ceremonies as the dignity of the commonwealth requires.

LEVI LINCOLN,

In behalf of the supreme executive.

To his Honor Levi Lincoln, Esq., Lieutenant-Governor, and the honorable the Members of the Council of the supreme executive.

GENTLEMEN: Under the bereavement which has called myself and my children into the most afflictive mourning, your condolence and sympathy are received with the deep-

est emotions ; and I offer you our cordial thanks for your kind and most acceptable expressions of the interest which you take in our sorrows.

It will be grateful to the feelings of myself and family to acquiesce in whatever testimonials of respect you may think proper to show in the interment of the remains of the late chief magistrate.

With sentiments of the highest respect,
and with the sincerest wishes for
your welfare and happiness,
MARTHA SULLIVAN.

December 12, 1808.

FUNERAL SERMON.

BY REV. MR. BUCKMINSTER.

For none of us liveth to himself, and no man dieth to himself. — Rom. xiv. 7.

WHENEVER the providence of God, in what is called the course of nature, removes from the society of mortals one whom we have long known, the chasm, which is thus left in the compass of our accustomed business, pleasures or acquaintance, suggests to every mind near enough to observe it, some of its most serious contemplations. We know that no creature, from the seraph, that stands forever in the light of God's countenance, down to the insect, that glitters only for an hour, was made without purpose, or has lived without effect. We know that throughout creation there is always some end, beyond the mere enjoyment of animal life, which every living creature is destined to accomplish; and we soon find, with relation to ourselves, that God has so wisely established the conditions of human happiness, that the highest felicity of every individual can be attained only by living for others, and losing sight of his own personal gratification in the general service. In proportion to the space which any man fills in the eye of the public, is the circle of his obligations carried out; the more ample his gifts, the more extensive should be his communications of good; the more busy his life, the more blameless should be his engagements; the longer his

period of activity, the more various and remote should be his influence; and the loftier his elevation in society, the wider grows the horizon which his views of usefulness should embrace. The loss of a single mind out of the living ranks of rational creatures may affect the circumstances of innumerable beings. The extinction of one poor life may reduce, far beyond our estimate, the intellectual light of the world; and if any man, however low and narrow his compass of action, could even faintly discern the most remote and feeble influences of his conduct in life, as they are propagated through the whole range of mortal existence, he would sink, with inexpressible humiliation, at the feet of God's mercy, and cry, Overrule, O God, the undiscerned influence of my ill-desert and inactivity; and, if it be but for an hour, let me not have lived in vain!

If such, then, upon the quenching of the faintest light of a human understanding, would be the meditations of a serious mind, which had considered the mutual connection and influences of God's works, when a man leaves the world, whose name has been long mentioned with interest, whose employments have been numerous, whose labors have been indefatigable, whose influence has been felt at the remotest border of our community, and whose station was at last the most elevated they had to bestow; — when such a place is left empty, every serious mind asks, with profound concern, has he lived for himself only, or for others?

In the decease of the chief magistrate of this commonwealth, God, my friends, has blotted out a life of no ordinary rank. That life, which has been so long quivering on the point of extinction, has at last lost its hold forever. The eye that saw him sees him no more; the voices which blessed him are henceforth silent; the prayers which were made for him ascend no more forever. His days are past;

his purposes are broken off; his breath has gone forth; in that very hour his thoughts perish, and his spirit returns to thee, O God, with whom alone it remains to estimate, with unerring truth, the value of that mind which thine inspiration enkindled, and that activity which thine energy sustained.

I need not ask for your indulgence, my hearers, nor that of the mourning family, if, from the words chosen for the text of my discourse, I devote the first portion to illustrate the great Christian obligation of neither living nor dying to ourselves. The memory of our late chief magistrate authorizes this topic; and still further, the selfish and luxurious security of our country, the consequence of past prosperity, ought to awaken our solicitude, as the gathering trials of our times may, ere long, call upon us for active, liberal, conscientious and magnanimous exertions. It is time, my friends, to look beyond ourselves, and feel the weight of our social obligations.

I. NO MAN LIVETH TO HIMSELF. The apostle's meaning in this clause cannot be mistaken. No man, in any period of his life, has a right to consult his own private interests, either solely or supremely. The reason is assigned in the following verse: "For whether we live, we live unto the Lord, and whether we die, we die unto the Lord; whether we live, therefore, or die, we are the Lord's"—that is, God is the spontaneous bestower of man's time, talents, opportunities and means; *therefore*, man remains, at his first and best and last estate, the property of God alone, whose grand purpose he ought always to accomplish within his sphere of knowledge and of action. This grand purpose is the glory of God in the multiplying happiness of creation; an object which nothing so effectually counteracts as the gross self-interest and inactivity of rational man. Nay, more; God himself, if I may be allowed to say it, God, the all-embracing and controlling power, lives not, and cannot live, for himself alone; but his unremitted

activity is nothing but the unremitted agency of almighty power, prompted by benevolence, and directed by wisdom and truth.

1. O, that I could write upon your hearts with the pen of a diamond this supreme law of human nature! Study the system, which you see all around you, of material, animal and rational existence, in its minutest or in its grandest portions. Nothing you see is insulated; nothing existing for itself alone. Every part of creation bears perpetually on some other part, and they must subsist together. Indeed, the whole universe, as far as we have penetrated it, seems to be a mighty and complex system of mutual subserviency. Do you suppose that bright sun has been shining now six thousand years to accommodate us only? No: it has warmed into life and joy innumerable millions, of which we know nothing; and it moves also to diffuse a wider influence, and to hold together the unknown globes and systems of globes, which are balanced around it. Descend as low as you can pierce, through the basest transformations of matter, living and lifeless, and you find everything has its use, and accomplishes its purpose. The very refuse, which man casts out and loathes, returns in all the beauty of vegetation, and brings him sustenance and gladness. The barren waste of ocean itself is the great medium of benevolent communication; its recesses teem with life, and its waters purify themselves by perpetual motion. Even the eternal ices of the poles are continually melting to supply the waste of fluid, and accommodate the wants of other regions. Beneficent activity is the primary law of creation; and inactive uselessness the eternal crime of human nature.

2. Again, no man liveth to himself, because it is utterly irreconcilable with the spirit of Christianity; for it is the gospel, and the gospel alone, which makes it an indispensable law to every Christian to be willing to sacrifice his highest terrestrial good, when God demands it for the ben-

efit of others. For, as Jesus is true, a man who makes this sacrifice cannot ultimately lose so much as a hair of his head. If you doubt this, look at the life of the Author and Finisher of our faith, which is at once the law and the example of his religion. It is the history of the most patient, wonderful, immeasurable sacrifices, which any being could make for the good of the worthless and ungrateful. If you except that prayer, which was extorted by excessive anguish, "Father, if it be possible, let this cup pass from me," the idea of self seems not for a moment to have held possession of his thoughts. It appears to have been as foreign to them as the idea of guilt. He lived in the hopes and fears, the pleasures and pains, of others, swallowed up in the future good of the race of men. It was for you, Christians, he ate, and drank, and rested, and slept, and prayed, and retired, and wept, and suffered, and died. Not a breath escaped him which did not bear on it a wish of good-will for the world that he came to save. This is the great law of Christianity, and Jesus fulfilled it. He is the first and worthiest example of the spirit and recompense of the gospel. For were all his sacrifices to no purpose? Was his the philanthropy of a fanatic or a cosmopolite, rewarded only by its own enthusiasm? No, Christians, we believe that the grave did not, and could not, imprison such a spirit. The tomb could not forever shut up a soul which had never been shut up within its own little sphere. It soon burst the bands, and dispersed the terrors of death. God could not suffer such a life to be lost; but we see this same Jesus, who was made a little lower than the angels for the suffering of death, crowned with glory and with honor. Wherefore, God hath highly exalted him, and given him a name above every name, that at the name of Jesus every knee should bow, and every tongue confess him Lord, to the glory of God the Father; for all live unto him. Such, my friends, was the first and destined reward of benevolence under

the Christian dispensation ; and as Christ has risen, and as God is faithful, this soil, now full of mouldering remains, shall not hold forever insensible one pure, active, benevolent spirit, as long as the world shall endure.

3. Again, no man liveth to himself, because no such man can be happy. It is an eternal and immutable law of God, that the direct pursuit of our own interest should infallibly defeat itself. Then only do we enjoy the full measure of satisfaction, of which our natures are here susceptible, when self is forgotten, and our faculties are all actively engaged in the generous pursuit of some worthy and benevolent object. Where, my hearers, do you find most of the wretchedness of the world? Confess to me it is not among the poor, the busy, the laborious, but among those who, left without anything to stimulate their exertions, have sunk into the selfish and sensual enjoyment of themselves. Where do you find most of the irritation, dissatisfaction, fretfulness and painful anxiety in the world? Is it not among those whose wants are all supplied, except those indefinite desires which fix on nothing? Is it not among those whose time is perpetually thrown back upon their hands ; men who have not the resolution nor the inclination to employ themselves ; men whose lives are frittered away in expedients to kill time, without a wish to gratify, or a pursuit to engage them, which does not bring with it doubt or remorse? The prospect of the hours which are to come oppresses them with anticipated evils, and the ghosts of the days which have departed, unimproved, rise to haunt their unoccupied fancies. Pursuit, and not attainment, is the law of human happiness. God has irrevocably determined that man to be unhappy who sits down only to enjoy ; and still further has he provided that we shall find our highest satisfactions only when we most completely forget ourselves in the pursuit. The man who has been living only for himself wonders that he is not

happy ; while the blissful and beneficent God looks down and compassionates the short-sighted selfishness of mortals.

If such, then, is the great law of nature and of Christianity, that no man liveth to himself, I call on you, whom God has distinguished with talents, whom he has prospered with good fortune, whom he has crowned with honors, whom he has elevated to stations of activity and trust, — I call on you for unrelaxed and generous exertions. The more extended is your influence, the more intimately do you depend upon others, and the more solemn are your obligations. The more various or exalted are your enjoyments, the more are your wants multiplied, and the demands of society increase in return. Have ye ever thought, ye rich and great, have ye ever thought how brief is the whole life of man, and how much shorter is the period of his activity ? Have you ever subtracted the days of helpless infancy, the years of childhood, when you lived on the care of others, the period of youth, in which you did little for others or yourselves, one third of life always sunk in sleep, as much more consumed in the indulgences of appetite, and an indefinite length lost in absolute inaction, and do you know what is left ? A very few months or years, perhaps, in which you have lived for the highest purpose of your being. And how long do you think the period of vigor and exertion will last ? Have you calculated the future waste of sickness, the palsyng influence of pain ? Have you thought of the inroads of old age, the days when you will live only to burden, and not to benefit society ? O, you who are now in the vigor of health and usefulness, consider, I beseech you, that, of threescore years and ten, you may not have ten, perhaps you may not have one more, to give to society and to God. And will this discharge your incalculable obligations ? *One* year to gain a title to the blessing of future generations, and the glory of eternity ! If this is the treasury of human merits, then, indeed, pride was not made for man !

II. NO MAN DIETH TO HIMSELF. This is a proposition which most men hear with more surprise and reluctance than the former. They have accustomed themselves to look forward to death only as the termination of life. They regard it simply as an event which dissolves their connection with the world, and which, as it closes forever the common inlets of suffering and enjoyment, effaces at the same moment their obligations and their powers. They flatter themselves that they have nothing to do in that last and dreaded hour but to compose their limbs for the moment of dissolution, and, with quiet insensibility, submit to be extinguished. But, I again repeat, not only is it appointed unto all men once to die, but, as the apostle says, "no man dieth to himself."

1. Because, in the first place, of all the changes to which our nature is subjected by the ordinance of God, this is that which is least within our power. "No man hath power over the spirit to retain the spirit in the day of death." We have neither influence to retard, nor right to accelerate this consummation. It is an event which the most sordid creature finds it impossible to convert to his purposes of self-interest. Then, if ever, the commission which God has granted us of life is thrown up into his omnipotent hand. Then, if ever, we are not our own, but God remains the only and uncontrolled sovereign of the human soul, and it is for him alone to say that it shall live again. Everything is annihilated but the consciousness that we are God's, with whom rests the destination of the living principle. For when the frame of clay is falling, and our last connections with the external world are in a moment to be rent asunder, with whom is man left but with his God?

2. Again, no man dieth to himself, because most of the attachments, satisfactions, obligations, habits, hopes and fears, which have hitherto constituted that complex object we call ourself, are dissevered by this last and greatest

transition, and, if we should continue to exist, we can hardly be said to live for the same self to which we have hitherto been attached. The act of expiring seems to leave the soul nothing of all which before engrossed it, but its moral bias and its God. Our habitual anxieties for health and support, our concern for those who remain last and nearest to us, our favorite pursuits and daily duties, our apprehensions and expectations from the world, and all the petty passions and prejudices which have so long interested and agitated the mortal dwelling in flesh, are on the point of vanishing, like the spectres and visions of a midnight dream, and man wakes a new creature in the morning of an unknown region and an eternal day. As that last crisis approaches, the care of the surrounding attendants diminishes; the anxious expression of the observers grows less distinct; the half-audible lamentations of our friends die away upon the ear to return no more; the pageantry of the sick chamber evanishes, with all the show and circumstance of life; and God, God alone remains the all-engrossing object of the soul's new perception. No man dieth to himself, for death leaves him not a moment to himself, but he is ushered into the nearer presence of his God, around whose throne the din of this nether world can no longer be distinguished, and the former idea of self-interest is lost in a throng of more intellectual conceptions. Surely, in this last hour, on which so much is suspended, self is the most empty of words, and God the most momentous. For this consummation the longest life is but a previous ceremony. Let the soul find herself, then, communing only with the omnipresent Spirit.

3. Again, no man dieth to himself, because, as soon as the interest of the inhabitants of this world is terminated by our death, the interest of a new world of spiritual beings is awakened. For we are hastening to add to the life and joy of heaven, or to enhance and propagate the miseries of hell. The world in which we have been living

was not more interested in our natural birth, than is the future world in our transition by death. We are encouraged to believe that the spirits, which minister to the heirs of salvation, wait to see us die in peace; and we may indulge the hope that joy is heard in heaven on the reception of a pure spirit to the region of everlasting life. No man, then, dieth to himself; for the consequences of his dissolution reach even to the throne of God, and swell the triumphs of the saints, or the terrors of the realm of darkness.

4. Lastly, no man dieth to himself, because no event, in the lives of most men, has a more extensive influence upon others. There is in almost every one an inexpressible curiosity to see how another dies. Let us all remember that we can give but one example of it, and a fault committed in the hour of our departure is not to be retrieved.

When we press around a dying creature, watching the last changes of his countenance, and the last accents of his voice, vainly hoping to gain some insight into that dark event, and curious to learn something of what it is to die, let us seriously consider that no man dieth to himself. Far be it from me to intimate that the manner of our death is a test of the character or an atonement for the faults of our lives; but every good man would wish to have it said of him that "nothing in life became him like the leaving it;" for the tongue will tell its last story without equivocation. The features will often retain the final and unalterable impress of the spirit, as it rushes forth to meet its God. It is possible, then, by God's blessing, to leave with the world the features of our religion. Remember that every good man, dying in his bed, is clothed with something of the authority of God. The language of the dying has something of the solemnity of a voice from the region of spirits. In the presence of the expiring, too, every heart is tender, every ear is listening, every breast is anxious, every noise is still; and men wait to receive from the lips of the departing a last message of God, which may not be repeated.

Our words, my friends, may then reach some heart which never before was touched. It may believe us when we tell it how the objects of mortal pursuit appear to us, as they are retiring in the twilight of life, when the light dawns from beyond the grave. After many of the events of our history are lost in forgetfulness, some may remember how we died; and it must be to a Christian an inexpressible consolation to hope that his last breath shall not be lost; that even the composure of his countenance shall not be seen in vain; that he shall teach his family and friends a more interesting lesson by his death than by any single action of his life; in a word, that in his death Jesus will have gained more than one conquest, and death have lost a triumph. Let me die the death of the righteous, and let my last end be like his!

You have no doubt observed, my hearers, in the topic which I have chosen, and the manner in which I have treated it, occasional recollections of our departed chief magistrate. He lives now only in our remembrance; and I can hold up to you the history only, and not the man. The tomb has closed upon his excellences and his imperfections. He has gone to appear before God, and his character only accompanies him! I stand not here to praise the dead, or flatter the living. I only pay the debt of private friendship and public expectation in what I shall now say of the life and character of Governor Sullivan.*

God, who disposes the lot of the undistinguished as well as of the eminent, marked him out in an obscure region to accomplish, by his indefatigable employments, purposes important in a young community. The history of his life would be the history of a mind which no exertion wearied,

* Governor Sullivan was born at Berwick, in the District of Maine, on the twenty-second of April, 1744. His father, a man of liberal education, came from Ireland to this country and settled at Berwick about the year 1723. He took the sole charge of the education of his son James, and lived to witness his rapid elevation. He died at the age of one hundred and five years.

and no obstacle permanently checked. We should see in him a man rising above all the impediments of fortune, and the default of a regular education, to fill successively the most busy and responsible trusts, where the greatest exertions of mind were demanded. We should discern his faculties expanding themselves, as his sphere in life enlarged, and growing more versatile as his opportunities multiplied, leaving, in every part of his course, traces of a powerful and original mind. Had it not been for one of those unforeseen misfortunes, on which the after-series of the most important lives sometimes depends, Governor Sullivan, instead of leaving a professional reputation, would have lived perhaps to be remembered only by his courage and an iron constitution. But the fracture of a limb in his early years saved him from the hardships of a military life, to which he was destined, and gave him to his country for a singular example of the eternal superiority of mind over matter.

This is not the place to detail to you minutely the progress of his elevation, from the time when he first drew the observation of his country. Every step is marked with labor and with vigor ; with increasing confidence in the public, and with unabated zeal and activity in the man. There is hardly a station of trust, of toil, or of dignity, in the commonwealth, where his name does not appear, though now only as a part of former records ; and, in the regions of science and literature, where we should least expect them, we find the most frequent traces of his efforts, and of his indefatigable industry.* Two years only of his life, after he once be-

*The following is a list of some of the principal works of Governor Sullivan :

History of the District of Maine, 8vo. 1795.

History of Land Titles in Massachusetts, 8vo. 1801.

Dissertation on the Constitutional Liberty of the Press in the United States, 1801.

Dissertation on the Suability of the States.

The Path to Riches, or Dissertation on Banks. 1792.

came a public man, seem to have been left him for private employments. He was almost forty years the incessant servant of the public, passing through the responsible offices of a judge of the maritime, probate and superior courts, of a representative in the provincial Congress, and in the state convention, of commissioner for his own state, and agent for the United States, of public prosecutor, president of more than one learned and charitable institution, projector and member of others, till he sat down in that station, which, if most honorable, he did not suffer to be the most easy, the chief magistracy of this commonwealth. You, who remember the various offices which he has filled, who know the prodigious labor attached to some of them, and the satisfaction which his exertions have given, will acknowledge with me that God raised him up to encourage the vigorous application of our powers to purposes of public utility. His voice, if it could now be heard, would call on every young man to repair, without fainting, the disadvantages of birth and education, to disdain the discouragements of poverty and the decay of years, of health and of fortune, and to live for others; for the service of our fellow-creatures is the service of God, and never did he yet suffer a service to be lost.

It is grateful to me to turn from the tumult and occupation of his public life, to see him reposing without an inquietude on the bosom of that family, which God allowed him to rear up to preserve his name, and administer to his increasing infirmities. It is peculiarly grateful to find, that, after discharging with exemplary filial piety the duties of a son to an aged parent, whom God permitted to hear of almost all his honors, except those paid to his lifeless remains, he should live to receive from his own children a correspondent recompense. His name promises to live in

History of the Penobscot Indians, in Historical Collections, vol. ix.

His fugitive pieces and occasional communications to the public prints were very numerous.

his offspring; and all that was excellent in his character will be transmitted, I trust, to posterity in their minds, long after the frail remembrance of his person shall have disappeared. They may learn from him to blend the filial piety of a son, the solicitude of a father, the fondness of a husband, and the generosity of a friend, with the paramount duties of a public character. May it not be said, without fear of contradiction, as long as they live, this father did not live for himself?

The portion of his life and character which I have been permitted most intimately to observe, it is my peculiar duty and satisfaction to record. His mind, if I may be allowed the comparison, was like a native forest, which had never been entirely cleared or carefully divided; where the light gained admission at every opening, and not through any regular avenue; where the growth was rapid and thick, and though occasionally irregular, yet always strong; where new seeds were successively shooting up, and the materials never seemed likely to be exhausted. I know that men of original thinking, whose minds are at all of a philosophical cast, are tempted, especially when deprived of the discipline of regular education, to speculate too curiously on the subject of Christianity, and to indulge the conceits of a barren scepticism. But, to the honor of our departed chief magistrate I mention it, his faith was never wrested from him by subtlety, nor thrown away, to pursue, with more freedom, purposes of interest or passion. His early profession of Christianity, his attachment to its ministers, his connection with several of its churches, and his interest in a rising family, came in aid of one another, and of religion in his mind. And when his frame was evidently shattered, his compass of ability contracting, the honors of his station fading away in his sight, and he had reason to think that God was calling him to his great account, the faith of Jesus was ever gaining new ascendancy in his views. Here death could

gain no triumphs as he advanced ; for so familiar had been his belief, that, when his mind could grasp no other subject, theological ideas seemed entirely at his command ; and I can appeal to his family, and my own conversations with him during his sickness, that he seemed as familiar with death as with life. His thoughts expatiated with singular clearness on the scenes which awaited him, on the mercy of his God, his own unworthiness, and the worth of his Redeemer. I shall not be misunderstood in saying that he seemed during his last weeks of decay to be making frequent excursions into eternity, and to bring back with him instruction for his friends, and hope and quiet for his own spirit. I cannot forbear to add that his religion, which had been so fixed in his understanding, sometimes discovered itself in devotional exercises of extraordinary emotion. Those who have been with him in times of severe trial, know that, if he had passions, they were not all given to the world. God has seen him at the foot of his throne, pouring out both the joy and the anguish of his feelings. His domestic devotions as well as private prayers have reached, I hope, the ear of mercy. May God have accepted them, and may they be the last of his services which shall be forgotten !

It cannot be supposed that a life so various, so busy, and so much exposed to public and private scrutiny, should escape without animadversion. But, whatever opinions may have been entertained of his public character by those who differed in important maxims of political conduct, the salutary effect of many of his labors will, I think, hardly be disputed. The poor often found him an unrecompensed advocate, the distressed a willing benefactor, the clergy an active and hospitable patron, and the public a servant, continually engaged in some project of utility, who has at last left behind him only the small remains of a fortune, which, in many other hands, would have been greatly accumulated. He died at a period when his enfeebled

powers of public service were most industriously employed, and in a station where he had never lost sight of that hopeless conciliation of parties, with which he ventured to flatter himself and his friends. The extreme placability of his temper will not be denied by those who have been brought into the most frequent collision with him; and it must be acknowledged that he endeavored to mitigate the asperity of our dissensions, and offered a resistance, not always ineffectual, to the violence of party. His family and friends have reason to bless God, that, as his life was prolonged, the hostility of his opponents was in a great degree disarmed; and perhaps at no period of his public career would the wishes for his continuance have been more general or fervent, than at the moment when God chose to take him from the world, and transfer our empty honors from the living to the dead. I look around, and the place which knew him knows him no more! In this temple where he worshipped he is no longer seen! O, God, may he have found a seat in the vast congregation of thy people!

His afflicted widow, who knew his most secret thoughts and domestic virtues, will bear me witness that I appear not here a partisan for the dead. If I have brought back the image of her departed husband to her thoughts, God knows I would now bring it back only as a messenger of peace and consolation. And you, dear children, your father's voice cries to you from his tomb, live not for yourselves! The last whispers of his breath taught you this lesson, and you have much to do to supply his place in all its activity and influence. May God consecrate your talents, your means, and your example, to the cause of truth, probity, peace and public happiness! Place God continually before you, for he only can completely supply the absence of a human father; and, when you find the charm of this world's attractions sensibly diminishing, do not forget that your father died not for himself, but for you; if, in-

structed by his example, you should have the happiness to die in the faith of Jesus.

My hearers, you have come up hither to listen to the praises of the dead! I have gained my purpose if you retire with the conviction, how empty are the praises of a mortal. The ear is deaf which once heard me; the tongue of the orator is motionless; the lips cold and rigid on which persuasion hung; and the hand, which held the pen and bore the sword and staff of office, fast clenched in death! And, having seen all this, can you go away and think of anything but God? Can you forget in an instant the inexpressible vanity of this world's honors? They have only dressed up another victim for the tomb! We have bestowed upon the departed all that man had to bestow; the pomp of procession, the spectacle of numbers, the solemn knell of departed dignity, the noise of military honors, the pageant of a funeral, tears, prayers, condolence, the decorated coffin, the long inviolated tomb,—all, all was to be found but he on whom these honors were bestowed! Every eye and ear was sensible to this respect but his to whom it was paid!

And now the noise of the crowd has ceased, the pageantry of office has vanished, and the tomb is still, is there nothing left of the loftiest officer of a commonwealth? Nothing, my friends, of all his honors, but the services which he has rendered to society. What he did for himself is no longer heard of; what he did for others only can embalm him. The governor is forgotten, the show of public respect has vanished; but the least remembrance of real usefulness and piety is eternally fresh. “Be wise now ye rulers, and be instructed, O ye judges of the earth!” You see what remains of the common objects of human ambition; a public funeral, and a quiet grave! and even these are left for your insensible remains. Live then for God and for society while you live, for God and goodness only are eternal.

When I look back upon the successive generations of men, and see how painfully they have been climbing to the heights of temporal grandeur; when I examine the empty decorations of mortal greatness, and observe the little brief authority, the panting ambition, the pitiable pride, the wreaths withered as soon as plucked, and the grave opening under the very chair of supreme authority; I am ready to cry, God have mercy upon the great, and forgive the pride of short-lived man, in that hour when the naked spirit shall stand trembling in thy presence, and it is no longer remembered whether it expired on a scaffold or on a throne!

I think, when you have been standing around the open tombs of the eminent, you must have asked yourselves, is this dust of their coffins all that remains of the dignity we remember? In such moments, surely you cannot have found the gospel as barren of all truth and consolation, as the splendor you have witnessed is barren of all real satisfaction. You cannot have turned your eyes away from the glory which breaks from the region beyond the grave, to let them rest again on the shadows, the retreating shadows of this unsubstantial world. O, no! hearers, friends, mourners, Christians let me call you! If, when you surrounded the grave of the departed, a ray reached your mind from the seat of eternal day, O, let it never be extinguished! "For the day is coming, and every eye shall see it, when they that are in their graves shall hear the voice of the Son of God, and shall come forth; they that have done good to the resurrection of life, and they that have done evil to the resurrection of damnation. And I saw the dead, small and great, stand before God; and I heard a voice saying unto me, write: Blessed are the dead that die in the Lord! for they rest from their labors, and their works do follow them." AMEN.

THE prayer at the funeral, earnest and eloquent, and glowing with the most elevated sentiments that the human heart, under circumstances of unusual emotion, ever addresses to the throne of the Infinite, had been prepared for insertion at this place. It is filled with interesting allusions to the character of the deceased, to the place he had occupied in the hearts of his countrymen, and fully confirms the views, presented in other portions of this work, of his untiring and consistent efforts to meet the divine requisitions in his walk through life. Upon the 'eve of publication it has been concluded to omit this, from a persuasion that to some minds it might appear irreverent to introduce into volumes chiefly occupied with secular topics the devotional language of the sanctuary. The arrangements made for the obsequies have been consequently substituted; and, as the usages at the present day, upon such occasions, differ in some particulars from those customary half a century ago, it may be useful, if not to the general reader, to all who are charged with the conduct of similar solemnities, to know in what that difference consisted.

GENERAL ORDERS.

HEAD-QUARTERS AT BOSTON, }
12 December, 1808. }

His excellency James Sullivan, governor and commander-in-chief of this commonwealth, having deceased on the tenth instant, his honor the lieutenant-governor directs that the deceased be buried with military honors.

The funeral escort will consist of the Boston Cadets, three battalions, of four companies each, of uniformed infantry, and three companies of cavalry, to be commanded by Brigadier-General Winslow. The escort will assemble on the Common, in Boston, on the day of the burial, precisely at eleven o'clock in the forenoon; and the brigadier-general commanding will give all the necessary orders relating to the disposition, ceremonies and conduct, of the troops, which will be under his command.

The major-general of the first division will order two companies of artillery to fire minute guns, one on the common and the other on Copp's Hill, in Boston; and the brigadier-general of the first brigade, third division, who will detach from his brigade the troops herein required from that division, will also order one company of artillery to fire minute guns from Bunker's Hill, in Charlestown, during the passing of the funeral; the whole to be under the direction of the brigadier-general of the day commanding the escort. The quarter-master-general will furnish the troops ordered on duty, with powder, cartridges and ammunition for the artillery. The military officers in the vicinity are invited to attend the funeral in uniform, with the usual badges of mourning; and Major Thayer is requested to arrange in order in the procession the military officers not on duty. All militia officers in the state are desired to wear badges, on suitable occasions, for one month. The funeral procession will proceed from the dwelling-house of his late excellency, in Summer-street, in Boston, on Friday next, at one o'clock in the afternoon. The route and manner will be announced in printed bills.

By order of his honor Levi Lincoln, Esq., lieutenant-governor and commander-in-chief.

WILLIAM DONNISON, *Adjutant-General*.

Colonel May acted as marshal, and, after the published order of procession, directs that the public characters and

societies designated to precede the corpse should assemble in Trinity Church, and that the public characters, societies, citizens and strangers, who were to follow it, should assemble in the First Church, on Chauncy-place. The members of the legislature were invited to meet in the senate-chamber.

At sunrise the flags at Fort Independence, at the United States navy-yard, at the gun-house on the Common, at the gun-house on Copp's Hill, and on board all the vessels in the harbor, were ordered to be hoisted half-mast, and for half an hour two-minute guns were to be fired. At eleven o'clock the bells were to toll during fifteen minutes, to suggest a suspension of ordinary business, by shutting the stores and shops, and removing carriages from the streets; and at twelve o'clock again to toll, when the supreme executive would attend prayers, with the family of his late excellency, at the Mansion House, in Summer-street, from whence the procession was directed to move, at one o'clock.

Here lies
 RICHARD BELLINGHAM, ESQUIRE,
 late Governor in the Colony of Massachusetts,
 who departed this life on the seventh day of December, 1672.
 The eighty-first year of his age.

Virtue's fast friend within this tomb doth lye,
 A foe to bribes, but rich in charity.

The Bellingham family being extinct,
 the Selectmen of Boston, in the year 1782,
 assigned this tomb to
 JAMES SULLIVAN, Esq.
 The remains of Governor Bellingham
 are here preserved,
 and the above inscription is restored
 from the ancient monument.

The family tomb of
 JAMES SULLIVAN, Esq.,
 late Governor and Commander-in-chief of the
 Commonwealth of Massachusetts, who departed this life
 on the 10th day of Dec'r., A. D. 1808,
 aged 64 years. His remains are here deposited.

During a life of remarkable industry, activity, and usefulness,
 amidst public and private contemporaneous avocations,
 uncommonly various,
 he was distinguished for zeal, intelligence and fidelity.
 Public-spirited, benevolent and social,
 he was eminently beloved as a man, eminently esteemed as a
 citizen, and eminently respected as a magistrate.

Huic versatile ingenium sic
 pariter ad omnia fuit, ut, ad id unum diceres
 quod cum que ageret.

TRIBUTE OF RESPECT

FROM THE LEGISLATURE.

THE following resolve was reported in the senate, and accepted and concurred in by the house :

Whereas it has pleased the Almighty Ruler of the Universe to remove from this life His Excellency JAMES SULLIVAN, Esq., late Governor of this Commonwealth, Resolved, That the members of the legislature recognize with lively sensibility his patriotism and his talents ; and, in testimony of their regret for the loss of him, their chief magistrate, will wear a black crape on the left arm the remainder of the present session ; and that the Hon. the President of the Senate and the Hon. Speaker of the House of Representatives address a respectful letter to Mrs. MARTHA SULLIVAN, widow of the deceased, in behalf of the legislature, expressive of their sympathy with her and the bereaved family, and that they enclose therein a copy of this resolve.

ADDRESS ENCLOSING THE ABOVE RESOLVE.

BOSTON, 2 *February*, 1809.

MADAM: In compliance with the order of the legislature of Massachusetts, we have the honor to enclose a resolution expressive of their respect for the memory of their chief magistrate. While the legislature are impressed with a grateful recollection of the ability and fidelity exhibited by his excellency in the series of important relations to the public, which he sustained with honor to himself and advantage to his country, they are also sensible of the high

character of his domestic virtues. His example as a husband and a father was a pledge of the sincerity and ardor of his attachment to the state; and the place he occupied in the hearts of his family afforded the highest ground to anticipate a constant increase of the love and esteem of the great political family over which he was called to preside.

In behalf of the legislature we offer to you, madam, with sentiments of respectful sympathy, all the consolation which can be derived from a testimony of public approbation of departed merit; and we implore, from the only Source of perfect consolation, from the Father of the fatherless and the widow's God, for you and your family, that peace which this world can neither give nor take away. Permit us, madam, to unite with this act of duty the assurances of our high personal consideration and respect.

H. G. OTIS,

President of the Senate.

TIMOTHY BIGELOW,

Speaker of the House of Representatives.

REPLY.

GENTLEMEN: Your acceptable letter, enclosing the resolve of the legislature in honor of the memory of the late chief magistrate, has been received. Permit me to offer you my thanks for the very polite and graceful manner in which you have made this communication.

The testimonial which that honorable body has given of the patriotism and talents of the late governor, and the honorable mention you have been pleased to make of his private virtues in furnishing to myself and my family the dearest memories of his worth, enhance to us the preciousness of his memory; and, while we derive from them the best of human consolations, we must ever cherish the sincerest gratitude for the sympathy expressed for us in our affliction.

To you, gentlemen, I beg leave to render the assurance of the highest respect, and to express my fervent wishes that, when the hour of calamity occurs to you, such consolations may be experienced as you have so feelingly offered on this occasion to myself and family.

MARTHA SULLIVAN.

SKETCH OF SULLIVAN.

BY SAMUEL L. KNAPP.

THE name of Sullivan is famous in our history. Governor Sullivan was a distinguished civilian; his brother, General Sullivan, a celebrated warrior in the American Revolution.

In the cause of their country, when the prospect was dark and uncertain, and the hearts of many wise and virtuous men failed, these two brothers, in the often perverted but emphatical language of the Declaration of Independence, "pledged their lives, their fortunes, and their sacred honor." They continued true to the holy determination, and their sacred honor is contained in the history of their patriotic labors.

It is not in our power to give any new particulars of the general. Of the governor we will endeavor to give an account which, however imperfect, shall not be discreditable to his memory.

James Sullivan was born the twenty-second of April, 1744, and was the fourth son of John Sullivan, who, about the year 1723, came from Ireland, and settled at Berwick, in Maine, and died at the extraordinary age of more than one hundred and five years. He educated his son, who owed to him all the instruction which he had, except in professional science, and the father lived to see his brilliant success in the world. Sullivan was not in his youth devoted to learned pursuits, but resided at home, engaged in the

happy but obscure life of agriculture. In a state of society moral and informed, but not polished, his ambition had probably never aimed at that celebrity which he afterwards attained. Here he imbibed republican lessons, which he never forgot. He learned that there was virtue and merit where there was little wealth or splendor; and was ever after attached to the yeomanry of the country, and regarded them as citizens on whom the welfare of the community mainly depended. He was deservedly their favorite, and never deceived their confidence. In some states the people of the humbler order are averse to the elevation of those of their own number, and prefer others born of more eminent families. It is not so in New England. A large proportion of our influential men proceed from the common walks of life, and feel for their old friends a respect, which those who have always lived in another sphere are not so likely to entertain.

An accident, which at first foreboded the greatest evil, was the cause of Sullivan's adopting the profession of the law. While felling a tree in the woods he accidentally received a serious injury in one of his limbs, from which a long and painful illness ensued. The consequence of this was lameness during the remainder of his life. This misfortune kept him from the army, in which he had determined to enter, and directed his attention to the profession of the law. His talents fitted him for the army, and he would probably have been promoted to high military distinction, had Providence not defeated his purposes; but he could not have been more useful in military, than he was in civil life. His advantages for study in early life were small; he was not stimulated by the competition of a large seminary, nor introduced by the counsel and assistance of learned friends to that fruitful field of knowledge which is opened in a regular classical education. It may in consequence be lamented that the early studies of this man of genius were not differently conducted, but how far our regret is

well founded cannot easily be ascertained. There is a sort of culture which acts unpropitiously on the native powers. Invention is sometimes retarded by the necessity of plodding over what is known, and remembering subjects disagreeable to the taste of the scholar. Fancy, broken and tamed by rules, often loses in boldness and sublimity of flight what she acquires in artificial correctness. Public education is frequently ill adapted to practical usefulness, and unsuited to the character of the student. Sullivan escaped the dangers of servile imitation; his mode of speaking was his own, not an awkward, unnatural mimicry of a dull pattern. In youth his head was not encumbered with obsolete lore, nor clouded with those thick mists of polemical divinity, which envelop many of our colleges, and are so unprofitably mixed with their whole management. He had a philosophical turn of mind, which he improved by exercise; yet his remote situation denied him the best means of furnishing his mind, and the courage and success with which he met and overcame all obstacles cannot be sufficiently admired.

In the study and practice of the law, at that period there were difficulties which must have severely tried the fortitude of a beginner, particularly of one who came forward under so many disadvantages. The elements were in no fairer shape than Wood's Institutes, and Coke's Commentary on Littleton. The wheat was hid in the chaff. Blackstone's Lectures were first published in England, in 1765, and could not have been much known in this country until some years after Sullivan commenced practice. There were then no reports, no books of forms appropriate to our peculiar laws and practice; which gave the elder lawyers, who recollected decisions, and had precedents at command, a greater superiority over the younger than they now have. Sullivan was then remote from the metropolis, but the splendor of his talents shone through the darkness of the wilderness. He was indebted for no part of his fame

to adventitious helps. He was not, like Parsons and Dana, trained by the lessons of Trowbridge, that ancient sage of the law; yet Providence smiled on the unaided efforts of his genius, and so rapid was his rise that before the Revolution he was advanced to the rank of a barrister in the superior court, and appointed king's counsel for the county in which he resided. He was destined to act a higher part; and, though thus noticed by men in power, was ready to oppose their tyrannical measures. The people of America were too wise to permit the operation of a principle of government radically wrong and slavish. They would not endure an attempt to take away their property without their consent.

Since the primitive days of Greece and Rome there have been no such instances of patriotism and self-devotion as appeared in the ensuing war. The people rose in their strength, and did not rest until they could repose in independence. Their resistance was founded on an enlightened understanding of their rights, and was not the ebullition of transient heat or blind resentment. The lawyers of those days, generally, are entitled to distinguished praise for the disinterested part which they acted. Many of them stood so high that their course was readily copied; and, had they been on the side of the crown and colonial governor, who had heaped on them personally flattering distinctions and lucrative offices, the opposition would probably have been little more than nerveless and disastrous sedition. It will be admitted by every one, who reflects, that they lost more than they gained, in a private view, by the change of government. They were in the first ranks of the community; and it has always been the policy of the British executive to patronize liberally all men whose influence may be serviceable, and to reward them out of the spoils of the people with posts of honor and emolument. Notwithstanding these prospects before their eyes, they labored at every hazard to establish an equal, eco-

nomical and frugal republic. Sullivan's expectations of preferment were great and alluring in their nature, but his lofty principles were not affected by this temptation, and he determined to fall, or rise only in the cause of liberty.

Our government being representative, and all measures decided by the deliberations of many, the civil policy of the country cannot be attributed to the wisdom of one or two individuals alone. What any one proposes is considered and modified by the counsels of others, and often goes into effect in quite a different shape from that in which it first originated. In military affairs, unity of plan is essential to success, and if the general advises with his officers, his counsel is at his own risk, and to be selected by his own judgment. The credit of success in war is therefore almost exclusively attributed to the commander. The responsibility of conducting our armies and preserving them from destruction, in the war of independence, devolved on Washington, and the praise of victory is with justice ascribed mostly to his personal energy and prudence. So absolute princes receive the honor of reforming civil institutions by their own efforts, or by directing the labors of statesmen and jurists to the same end. For this reason Justinian and Alfred have been celebrated as reformers of law. No one man in this country can claim for himself alone the merit of framing our constitutions and amending our laws. But Sullivan had a large share in the proceedings of the government of Massachusetts, at the period of the Revolution. Before he had reached the thirty-second year of his age he was reckoned among the first men. He was a member of the provincial Congress; and while he belonged to that body, in 1775, was sent on a difficult commission to Ticonderoga, in company with the Hon. W. Spooner and J. Foster, for which a vote of thanks was passed. In 1776 he was appointed a judge of the superior court, with John Adams, William Cushing and others. He had before been appointed judge of the court

of admiralty erected for the counties in the district of Maine, but never entered on the duties of that office. He assisted as a member of the convention to form the state constitution, and continued a judge of the supreme judicial court until February, 1782, when he resigned and returned to the practice of the bar. In 1783 he was chosen by the General Court a delegate to represent the state of Massachusetts in Congress; and, in the ensuing year, acted with John Lowell and Theophilus Parsons as a commissioner in the settlement of the controversy, then existing between the states of Massachusetts and New York, concerning their respective claims to the western lands.

He was repeatedly chosen to represent the town of Boston in the legislature; in 1787 was a member of the executive council; the same year was made judge of probate for the county of Suffolk, and in 1790 attorney-general.

In 1796 he was appointed by President Washington a commissioner, under the fifth article of the British treaty, for settling the boundaries between the United States and the British Provinces. In June, 1807, he was called to the chief magistracy of the commonwealth.

Whoever considers the acknowledged eminence of the commonwealth of Massachusetts, must be convinced that a lawyer who was called to such high trusts, when offices were not given by favoritism or party motives, must have had unquestionable talents, and been an able and successful advocate.

The power of description never fails more than in the attempt to convey an adequate conception of the eloquence for which a departed orator was applauded. Comparing able speeches to torrents, rivers, cataracts, fire and lightning, or to any grand objects of nature, by any analogy whatever, rather displays the aspiring language of eulogium than does justice to the dead. Who that had never read the works of ancient orators could receive any competent idea of them from the representations made by their ad-

mirers? All that is possible to be told, may be expressed in a few epithets that have a definite meaning in the science of rhetoric; and by relating the time, the circumstances, and, as it were, the scenery, which gave effect to what was uttered. The grace of action irretrievably perishes, and the beauty of the style can only be known by reading what was delivered. The eloquence of a great man is seen, through any description, dim, faint, and shorn of its beams.

All our people read their native language, and are accustomed on all occasions to thinking, inquiry and deliberation. Their judgments are commonly formed patiently and slowly. From theological books, to which they are generally much devoted, they acquire habits of investigation and argument which they apply to other subjects. They pay more attention to the sound reasoner, however dry, than to the glowing images of the charming orator, charming never so wisely. Ornament, to suit them, must be more after the Athenian than the Asiatic models. Mansfield would please them more than Curran or Burke. Sullivan and Parsons made more impression than Ames. To have a powerful sway with juries of this description, Sullivan was obliged to study their taste, and to adopt a style of speaking according to their standard. Thence it happened that his oratory, like that which prevails in New England, was solid, logical and correct, though sometimes he could be figurative, dazzling and brilliant.

He had very dignified manners and a commanding person, which, when he spoke in court, did not appear to be marred by his lameness. His features were remarkably fine, and the expression intelligent and placid. He was always composed and self-possessed in argument, for his powers were not only great, but ready for every trial. The greatest lawyers were his antagonists at the bar, — Dana, Lowell, Parsons, Sewall, Gore, Dexter and Otis. Still he sustained his rank, and, if not first, was in the first class. He was as well versed in special pleading and all the forms

of practice, as in the science of the law. In one of his works he thus expresses his opinion on the importance of forms: "There is more of the substantial principles of justice depending on forms, than men are generally willing to acknowledge. When forms are done away, the substances may remain; but, when the forms are no longer discerned, the difference between the nature of substances is soon lost. The dust of man, when his form ceases to appear, is not known from the dust of other animals. Established forms of procedure, in the distribution of civil justice, serve to bind the judge and the magistrate to the path of their duty, and to chain the man, exercising civil authority, to the line of his jurisdiction; because that through these the people are enabled to discover each deviation from right, as colors serve to give the first intimation of the nature of the substance on which they appear."

The great traits of his mind were force, comprehensiveness and ardor. Nothing of consequence in any cause escaped the fulness and intensity of his thoughts. His arguments were clear, close and strong, not calculated so much for parade as to secure conviction. His voice was clear and loud; his enunciation, articulate and emphatical. His tones were adapted to the subject and the audience. His pathos sometimes drew tears from those who heard him. In important cases, his addresses to juries were well prepared and digested, and embraced and illustrated all the topics of the question. He acted as attorney-general in two very interesting capital trials which have been reported. His management of each would do honor to any lawyer. One was the case of Jason Fairbanks, who, in the year 1801, was convicted, on circumstantial evidence, of the murder of Miss Fales. The public were violently agitated at the transaction; most were strongly impressed against the prisoner, but some in his favor. The defence was conducted by Harrison Gray Otis and J. Lowell, junior. Perhaps facts were never more adroitly argued than they

were on this occasion. The prisoner's counsel commented on the testimony with wonderful ingenuity. Sullivan the attorney-general's reply was masterly and conclusive. He remarked on all the facts with great ability, and met every doubt and objection with fairness and success. In his speech were some excellent moral touches, and the whole trial is, even at this day, worthy of being read by every student of law who loves his profession, and would wish to see in how many different lights the same facts may be presented. The accused was a young man of good family and education, and twenty-one years of age. The deceased was a reputable young lady of eighteen.

The other was the celebrated case of Selfridge, who was tried for killing Austin, which, from party excitement at the time, and the important questions of homicide raised and settled in it, was known throughout the United States. The report of the trial has circulated so extensively and been so much read, that it is sufficient to refer to it. It was considered a specimen of the greatest legal skill and learning on both sides, and Sullivan was thought to have encountered the exceeding subtlety and deep research of the defendant's counsel, Gore and Dexter, with a power of argument and illustration no way inferior to theirs.

Sullivan was universally popular until he opposed some measures which were adopted soon after the national constitution was ratified. The parties which have since divided the country rose at that time, though they became more distinctly marked afterwards. He disliked the national bank, and was friendly to the republic of France, until the excesses of the demagogues there disappointed his cherished hopes for its rational liberty. In these opinions he differed from some of his old and esteemed associates. The separation grew wider and wider, until what was at first an honest difference of judgment, grew into alienation and antipathy. These things could not move him from his course. No man was ever less intimidated by the storms

of party rage. What particular share he had in the party transactions of that day is not known to the writer. It is believed, however, that he was so far from exasperating the passions which were then roused, as to sacrifice much of his own feelings to the interests of peace and moderation. He gave the weight of his high standing and talents to the side which he thought was right, and was regarded as its most efficient leader in the state. This exposed him to much virulence and abuse. And what eminent man has not been subject to calumny? He was consistent through his whole public life, and, when the most provoking obloquy was heaped upon him, never returned railing for railing. He had too much good sense, philosophy and piety, to be thus guilty. Whoever reads his productions will be struck with their calmness, justness and forbearance. His eye was fixed upon truth and the everlasting welfare of his country; and he was too elevated to suffer by the traducers who wished to ruin him. This moderation, as was natural, only inflamed them the more; but his firm and conciliatory conduct did not fail of gaining the respect of liberal and fair opponents; and they who were halting between the two parties were won by it to his side. Never did any great man more completely and honorably triumph over his enemies. Every year, to the last, added strength and stability to his reputation, and he died invested with the badges of the highest office in the gift of his native state, and was universally mourned.

In his administration he was wise, upright and impartial. When solicited by some violent men to remove from office some worthy incumbents, for no other reason than their being of the opposite party, he declared that he would be the governor of the people, and not of a party. The object of his administration was to conciliate parties, and was in some degree successful. But after he died the olive-branch withered, and the political storm raged more than ever. Everything is now calm, the state is safe and free,

and he sleeps in peace with others, who, with equal patriotism, took another course. We now recollect with admiration that he sustained a greater number of important offices, and for a longer term, than any other man in the commonwealth ever did, and that he never shrunk from his duty or proved unequal to it. Every step of his career was laborious and responsible, but his energy and faithfulness supported him through every part, in the practice of the most arduous virtue and constant usefulness.

* * * * *

Political and professional pursuits did not wholly engross his care. Letters and science received his aid and encouragement. He was one of the first members of the American Academy of Arts and Sciences; one of the founders, and many years president, of the Massachusetts Historical Society. In the life of Sir William Jones may be found a letter which was addressed by Sullivan, when president of that society, to inform him of his election as an honorary member. He was actively concerned in several religious and benevolent associations. His public spirit was never weary in its exertions; and, since public works have justly obtained so much estimation, and reflected on their projectors so much honor, it should not be forgotten by the citizens of Massachusetts, that, besides his other claims to their gratitude, they are indebted to Governor Sullivan for the Middlesex Canal. He planned that great work, and devoted to it much time and labor. From its commencement until his death he was president of the corporation. Some of his writings have been published. They seem to have been intended by him rather to be of service to the world than to build up a literary reputation. He was too much engaged in business to have leisure for very elaborate composition. The subjects of which he has treated are all interesting, and he did not feel himself at liberty to withhold the light which he could bestow on them. The History of Land Titles contains the most prominent facts

in our legal annals, and many just and excellent remarks on our laws and constitutions. It would be more read and better esteemed, had not our Reports, which were soon after published, gone more fully and conclusively into the same researches. The reasonings of one man cannot stand in competition with the opinions which are spoken by authority. The History of the District of Maine does credit to his industry, and preserves from oblivion much traditionary narrative. His Treatise on the Suability of the States is a sound and judicious piece. The Path to Riches, or an Essay on Banks, contains perhaps as good principles on that topic as can anywhere be found, and, in point of style, is one of his neatest and most finished performances. I have never seen his Treatise on the Constitutional Liberty of the Press. He proposed to write a history of the criminal law of the state, but it was never printed. Every one of his works glows with the fervor of true patriotism and benevolence. His conversation was enriched with the stores of various reading, for there was no department of learning with which he did not seek an acquaintance.

* * * * *

Our country has a property in the characters of its great men. They shed a glory over its annals, and are bright examples for future citizens. Other nations, too, may enjoy their light. The flame of liberty has been caught from the patriots of Greece and Rome by men who were not born in those lands, while the descendants of those patriots have forgotten the fame of their ancestors. And should it happen, contrary to all our prayers and all our trust, that the inhabitants of this country, at some period hereafter, should lose the freedom and the spirit of their fathers, the history of our Adamses, our Warrens and our Sullivans, shall wake the courage of patriots on distant shores, and teach them to triumph over oppression.

MEMOIR OF JAMES SULLIVAN.

BY JAMES WINTHROP.

THE late Governor Sullivan, one of our original associates in the Historical Society, and our first president, was born at Berwick, in the District of Maine, on the twenty-second of April, 1744, and is said to be fourth son to his father, who came from Europe and settled in that town as a farmer. The son having met with a hurt, which proved a lasting injury to him in walking, turned his attention to the study of the law, under his brother, John Sullivan, who afterwards became eminent as one of our revolutionary generals, and as governor of the state of New Hampshire. When the term of study expired he opened his office at Biddeford, on Saco river, and continued there until after the commencement of our revolutionary war. He had, even at that early period of life, attracted the attention of the government, who appointed him attorney-general for the county of York. Our dispute with Great Britain was then growing serious. Mr. Sullivan was able at once to appreciate the advantages to the community from a vigorous assertion of our rights, and we find him uniformly joining the band of patriots who nobly defeated the claims of Great Britain, and at length obliged her to recognize our independence. During almost the whole of the contest, we find his name in situations both honorable and responsible. He represented the town of Biddeford in the provincial Congress in 1774 and 1775, and in the legislature,

which was regularly formed upon the model of the charter, in 1776. In the first set of officers for the civil department, he was appointed judge of the maritime court in the district in which he resided. The next year he was called to the superior court, as the supreme judiciary was then denominated. Soon after this promotion he removed his family to Groton, where he purchased a farm.

Necessity had obliged the government to defray the expenses of war by the medium of an unfunded paper currency. Toward the end of 1777 the depreciation became visible, and to those who were limited in their resources, as public officers and literary men generally were, it became distressing. Mr. Sullivan, however, far from being discouraged, continued his official exertions, until it had become evidently necessary for the enemy to accede to our claims. He then, in 1782, resigned his office as judge, and removed his family to Cambridge, and soon afterward to Boston, which became the place of his stated residence till his death. He was appointed a delegate to Congress in 1783, and was continually in some station of public employment during the remainder of his life. The times of his different promotions, or occasional employment in public service, are particularly detailed in an elegant memoir, written, on the occasion of his death, by one of the most accomplished literati of our country, and published in the periodical productions of that time.

His mind was not only uncommonly comprehensive, but always on the stretch. He published a learned work in his profession, and wrote a history of that part of the state in which he began life. Both of these works are esteemed in the different departments to which they relate, and though neither of them is supposed to be perfect, yet the imperfections are such as would hardly be noticed in writers of the common stamp. He published a number of smaller tracts, which have not yet been collected into a volume, though, generally speaking, the same vigorous intellect

appeared in all his writings ; yet, from several of them being written on special occasions, they have not acquired the permanent form.

In every department in which he served, strict fidelity, due attention to the rights of all with whom he transacted business, and unremitting industry, united to friendly manners, gained the esteem and affection of the community, which they expressed by electing him governor of Massachusetts in 1807, and reëlecting him in 1808. During this period, overburdened with public cares, and worn out by a continual succession of difficult and arduous employments, his constitution began to fail, and, before the expiration of the second year of his administration, he sunk into his grave. He continued, however, notwithstanding the decline of his health, to do business till within a few days of his death, and transacted it with the same regularity in the near views of his dissolution, as when he was in health. His mind was supported by the Christian hope and faith that death was to those who had done their duty here only a change of abode, and an entrance on a more permanent state of enjoyment.

As governor he was remarkably successful in mitigating the severity of the political parties which divided the state, and their leaders generally and sincerely regretted his death. He died on the tenth of December, 1808, in the sixty-fifth year of his age, and was buried with the honors conferred on his exalted station, and which were acknowledged to belong to his distinguished merit.

C O R R E S P O N D E N C E .

TO THE COUNCIL.

FALMOUTH, 7 *November*, 1775.

I NOT long ago took the liberty to submit to your honors the very alarming state of this part of the colony ; and now again, presuming on your candor, trouble you further. As the public good is my only inducement, I trust, however assuming it may be, I shall be pardoned.

In my former letter I mentioned that an army raised to defend us at the public expense would defeat its very end. Since that time, being invited by the people of the county of Cumberland to assist in fortifying Falmouth Neck, I find the ground here to be so advantageous, that, should the regular army get possession of it with one thousand men, there would be no way to force their lines. All the province of Maine must fall a sacrifice, and be obliged to take arms against their brethren, as the inhabitants of Boston now are, or flee from their habitations to the old colony, for subsistence and protection ; an alternative cruel to our brethren, but infinitely more so to us. If the English troops should get footing here, beef, wood and other necessaries, would be supplied to their army, wherever on the continent it may be encamped, and a full supply of lumber sent to the West Indies. This I apprehend to be well worthy the attention of the guardians of this colony, as well as of those of the continent.

The militia of the county of Cumberland, and the eastern part of the county of York, have been for several days,

and now are, cheerfully entrenching and fortifying, to prevent so great a calamity. But as a fleet can at any hour after night come into the harbor, which is, undoubtedly, at all seasons of the year the best in America, and suddenly land a party on the hill, which forms one of its banks, and is much better adapted for defence than Bunker Hill, there must be a constant garrison to hold possession. One thousand men, with a good organization of the militia, will be sufficient to keep the town, and hold the key of all this territory.

This would be more eligible than the keeping an army of several thousand men, next spring or summer, to watch the motions of an army encamped within lines by no means to be forced.

There are a number of fine cannon here, but no powder worth consideration, and I must beg leave to suggest, for the public good, that the powder in several towns behind the continental army might be ordered here immediately. There is no probability of its being needed this winter where it is, and, as several vessels are now gone from this place to procure a supply, and advice this day has been received from the West Indies that powder is plenty there, it may be repaid before spring. The distress of this unhappy town serves to unite the people in the most vigorous measures they are capable of, and many of those who addressed Governor Hutchinson are now the most zealous in their country's cause.

I would beg leave to suggest the expediency of having the sea-coast men in this county, and those in Wells, Arrundel, Biddeford, Pepperellborough, in the county of York, ordered here. These will make one good regiment, and, as they must be on much fatigue, their wages may be raised to the establishment of the army at Cambridge, and field officers appointed over them. These can serve until the last of December, with such regiments as may be ordered here from Cambridge, or raised by this colony, and by the

expiration of that time it may be determined whether five hundred men, during the residue of the winter, will be sufficient. There must also be some person appointed as commissary and quarter-master.

In the above suggestion for garrisoning this place, I have no selfish views; for, if the ministerial army should come here to ravage and destroy, it would be but little out of my way to find an asylum on the westward of Merrimac River; but I tremble at the consequence of not holding this advantageous ground. I would just mention that the general officer who commands this garrison ought also to command the militia of the province of Maine.

TO SAMUEL FREEMAN.

FALMOUTH, 21 *January*, 1776.

SIR: I am obliged by your several letters. I am surprised the militia bill is where you mention in your last. I fear our country will owe its destruction to the squeamishness of our General Court. Bold and manly strides are necessary in war. What is done amiss may be set right in time of peace. If the court would have a recess, and see how much the country is distressed for want of the bill, they would pass it, or some one, immediately. Shire has been at Falmouth engaging men, and has never refused serving there. How Mr. Morton came to be appointed in his room, when he had never resigned, I do not conceive.

Mr. Morton's delivering the orders of rice and crackers has been a great injury to us. General Washington's taking the guns from the eastern soldiers is also a serious evil. A petition is on foot on that subject. No news here. Frye expects the command.

TO SAMUEL FREEMAN.

BIDDEFORD, 27 *January*, 1776.

I this moment received yours, dated the twenty-third instant. I am glad that the militia bill is passed. Whatever the amendments or alterations may be, I shall rejoice to see our militia on foot, for in them is my hope. The admiralty fees, let them be as they may, will not be disagreeable to me. I find there are orders to have one hundred and eighty men from your county to head-quarters. I wish the province would not depend on them, and then there will be no disappointment. As to a company of our sea-coast men to join the army, the general need not depend on them, for there is no company raised, or likely to be raised. The people cannot comply with the establishment; their guns have been taken from them by order of Congress. There are yet a few arms, but they are owned by those who will not dispose of them, because by the militia bill they are compelled to be equipped with them. I wish our General Court would send a committee down. They might then understand the situation of this part of the colony. This will prevent their governing us in such a manner as to disaffect the people with the government. I should be glad to know why the present temporary recruits cannot be raised in the interior part of the province, and not from the sea-coast, where we expect daily ravages. If I thought the court would sit long, or any time hereafter, I would set off immediately. I should be glad you would write me, as soon as you can, your opinion how long they will sit.

TO BENJAMIN LINCOLN.

31 *January*, 1776.

While the honorable board are so much troubled with business of the greatest importance, I am sorry to trouble you on the affairs of the eastern parts of the colony. Five or six weeks have passed since the officers at Falmouth

were appointed by the whole court, and no commission is yet made for them. Captain Morton tells General Frye that he waited long, but could not obtain them. We are in a poor situation here for want of them, and beg the favor of your procuring and delivering them to Mr. Freeman, that he may send them. I want matters here so settled that I may be with you.

I lately received an order of court, by which I find that I am to assist in the raising of two hundred and thirty-eight men in the county of York to go to Cambridge. They shall be raised, and then I dare aver that more than one half of the men in the town and district which I represent are at head-quarters; and should the guns of those be stopped, as those of the men were who went up in the summer, we shall be entirely disarmed. Government is as tender as it is necessary; and was it not that entire obedience alone can strengthen it, I should have been far from encouraging our men to leave this place at this time.

TO BENJAMIN LINCOLN.

FALMOUTH, 7 February, 1776.

I heartily congratulate the county of Suffolk on your appointment; but, when I left the court, understood it to be agreed upon that you were to be one of the major-generals. However, let you be in what station you will, you will be the public's faithful servant.

They are thrown into distractions, in the county of Cumberland, on the appointment of a brigadier. It is rather worse than the sheriff's appointment. It throws them all into confusion; and there can be no militia formed, and the country must go for it. A vessel was just upon sailing in ballast, for powder, with a large sum of hard cash; she is now hauled up. The sea-coast officers say they will resign, and the men say they will not serve. The gentlemen of the county are affronted; each one has his party; they all curse the government; say they are abused more

by the General Court than the Parliament. Some are for calling town-meetings, some are collecting the town committees to petition against him. I need say no more. You may picture to yourself the emotion of a spirited people when they are put under the command of a man of no education, character, estate, breeding or family. It is unhappy for us; but, while the court will, to please their Don, appoint him in opposition to the sense of the people, signified by their representatives, I have no need to be there. Farewell, dear friend. I wish you a happy government.*

TO PEREZ MORTON.

BIDDEFORD, 8 *February*, 1776.

The resolve of court for reënforcing General Washington's army with four thousand three hundred and seventy-eight men, was sent me on the twenty-ninth ult., accompanied by a letter from Colonel Sayer, chairman of the committee of the county of York, wherein he gave me notice that he and Major Goodwin had ordered that I should assist in raising and forming those in the towns of Biddeford, Buxton, Arrundel and Pepperelboro'. I then thought that, as so many were already gone in the service, and three of these towns were on the seashore, the raising them would be impracticable. However, I have accomplished it; and, after giving Colonel Sayer notice to the intent that Wells might join us, I this day called them together to choose their officers, and march to headquarters. While waiting for the people of Wells, I learned from Colonel Sayer that he and Major Goodwin had agreed that the four towns before mentioned should join with York and make up a company, and that Wells should have

* It is not known who was the unpopular candidate; but, public opinion being capricious, it is no disparagement to him that another was preferred. The letter seems to have been effective. General Frye was appointed, and generally esteemed.

one of their own, with four officers, and ninety men, instead of thirty-five, while five towns in the county should be but equal to Wells in privileges in this matter. Our people living remote from, and being unacquainted with, York, and humbly conceiving, notwithstanding the wise determination of the committee for that county, that our town might presume to hope for privileges equal to the town of Wells, I have filled up the company, excepting a few who will be enlisted to-morrow. They have chosen for their captain John Elder, who has been at the head of the militia in Buxton seven years, Amos Towns, of Arrundel, and Samuel Scammon, of Pepperelborough, for their lieutenants, and Jeremy Cole, of Biddeford, for their ensign; and they, to-morrow, lead off a company of brave men, with good fire-arms. These officers are men of repute and estate, and go in reliance of being commissioned by the honorable board.

TO SAMUEL FREEMAN.

FALMOUTH, 12 February, 1776.

DEAR SIR: Since this noxious animal, called the county of Cumberland, when raised to view, gives the house so much uneasiness, and, since she is now, by your late proceedings, bound hand and foot, and laid on the altar of destruction, trembling in expectation of the reeking knife which has once been plunged into her side; and, since Bowers, that stable patriot, and the good Mr. Cooper, have undertaken to whet the knife, it is best to mention her no more. I mentioned in a former letter Mason Ilsley as having some powder, which he possessed not so much to his own credit; but the judgment was made up against him on the evidence of slander only, without attending to the great rule *audire alteram partem*. His character stands fair, and I wish this story may not injure him.

TO JAMES WARREN.

BIDDEFORD, 4 *June*, 1776.

Since I left the court, I have recollected that there is no truckmaster at Penobscot to supply the Indians on the Bay of Fundy, and the St. John's tribe. When their chiefs were up, in the last summer, they informed the court that they had six hundred fighting men. Brigadier Preble was appointed the truckmaster for them; but I believe he never accepted the office. One Lowder was nominated by the Indians, but nothing has been done. As the country of these Indians is within Nova Scotia, and contiguous to Halifax, there is great danger of their being enticed to take part with the more savage British troops; in which case our settlements in Machias, and others at the eastward, will be broken up, and a very great number of persons become a public charge. As the Indians are ready to pay for all their supplies in furs, and, as the present is the time for bringing them in, I think that this matter deserves immediate attention. You will, therefore, be kind enough to mention it to the house.

TO SAMUEL FREEMAN.

IPSWICH, 19 *June*, 1776.

The court have received the resolve directing the justices of the same to take cognizance of all actions heretofore appealed and not determined by them. As this extends as well to Cumberland as other counties, I take it to be necessary for the clerk of the pleas to be in his office, in order to give out copies. Great inconvenience must arise to the subject unless he is. You will, therefore, take it under consideration whether it is not best to have the court adjourned by order of assembly, if you cannot attend. If it is adjourned or not, I depend that this letter will not be communicated. If the court is adjourned, the resolution therefor ought to overtake us at York; and the adjournment, considering the state of the country, should be into the next term.

TO JOHN SULLIVAN.

BOSTON, 30 *August*, 1779.

Your family are well, and wish ardently to see you once more, which they almost despair of. The continental ships, Providence and Ranger, with one other, have taken ten Jamaica men, eight whereof have arrived, and the others are expected. You have, undoubtedly, heard of an expedition of this state against eight hundred of the enemy, who, on the ninth of June last, took possession of Penobscot Point. It has turned out to be an unhappy affair, as you will see by the following narration :

The very uncommon scarcity of bread in New England, the last winter, made it impossible for this government to supply the eastern people as they had done during the war ; and it is said that some of them died of hunger. In this situation the tories of the district, headed by Calef and Goldthwaite, induced some of the cooler whigs, as it is said, to join in a petition to the enemy to come and take possession of the place ; which they did at the time above mentioned. The whigs there, and all who held offices under this state, were obliged, of course, to retire. Boston and the seaports became alarmed at the prospect of a scarcity of wood, and men who have made their fortunes by the war, for once, and for one moment, felt a public spirit. Those who had ships of war offered to send them upon their own risk, which stimulated the general assembly to an expedition ; and Brigadier Lovell was appointed to command the land forces, consisting of about nine hundred, falling three hundred short of the proposed number. The naval board ordered Saltonstall, in the Warren frigate, and also the Providence sloop, belonging to the continent, to join the fleet. But the merchants, ever wise for this world, thought it most prudent to have their ships appraised and insured by this state, excepting the Hampden, a twenty-gun ship, belonging to, and insured by, New Hampshire. Six weeks was this *secret* expedition in hand

before the fleet or army was ready; in which interim a number of prisoners escaped from the prison-ship, carried a schooner by assault, and went to New York with the secret intelligence.

At length sailed thirteen fine ships, six brigs and one sloop, besides more than twenty transports, bearing on their sides and in their holds three hundred and sixty pieces of cannon, with all else necessary; the continental commodore having orders, as one of the navy board says, not to stay in Penobscot river more than twenty-four hours. He had the command of the fleet. The council gave General Lovell orders to attack immediately. When they arrived, they dislodged some of the enemy, who were posted upon Bagaduce island, and drove them to a point, where they had thrown up a fort and two miserable redoubts. Our people landed with the loss of about thirty men, and took the outposts or redoubts; the last of which they took in the night. In these assaults they were thrown into some confusion by two columns meeting and firing upon each other, whereby some lives were lost. The main fort, miserably built, now remained in the hands of the enemy. A council was called to determine whether they would attack or not. Whereupon it was agreed that the want of discipline was the cause of the confusion in the last assault, and that another could not be made without regular troops; and thereupon an express was despatched, and Jackson's regiment embarked.

Meanwhile the council forwarded orders to Lovell to attack immediately; but, before the orders arrived, there appeared in the offing a sixty-gun ship and five frigates. A twenty-eight and twenty gun ship of the enemy had laid in the neighborhood of our fleet all this while without being attacked. When the ships appeared, the commanders of our ships called upon the commodore to know whether he would receive them or get away. This point was never settled. The English ships came in; ours ran

up the river as far as they could ; the Hampden and a brig were taken ; the Pallas, a brig, ran away. The commodore set his ship on fire, and the others followed the example ; stores and all were consumed. The land forces, terrified at the prospect of starving, every one ran his own way. More than forty miles of pathless woods they had to cross, and no doubt many of them perished. Neither general nor commodore have arrived. The former engaged some Indians to pilot him to Kennebec ; but whether he has got there we know not. This has involved this state in a debt of full seven millions of dollars, which is not so distressing as the disgrace we suffer. Jackson's regiment heard of the catastrophe, put into Portsmouth, and moved to Falmouth.

P. S. 31 *August*. — Commodore Saltonstall has come to town.

TO ELBRIDGE GERRY.

BOSTON, 25 *December*, 1779.

Being very sensible that your attention to the forming of alliances, raising armies and managing finances, most solemnly forbids your devoting any part of your time to private friendship, I can forgive the neglect you have shown me in breaking our former correspondence. But you will, nevertheless, let me intrude one thought upon you respecting our maritime jurisprudence ; for it is at this time such a motley mixture of the civil law, common law, and of the law of nations, together with our municipal laws, and so very expensive to the subject, that I most ardently wish a reformation of the whole into a systematic and homogeneous plan ; and, as I had the honor and advantage of jointly laboring with you in the first attempt of maritime laws in this state, there may be the less impropriety in addressing you upon the subject.

When our law was made for erecting the maritime courts, the temper of the people was such, and so greatly were they

enraged at the corruption of former admiralty courts, that courts of this species without a jury would have met their universal disapprobation. But they are now fully satisfied with the wisdom of all civilized nations in appointing one judge to try facts as well as law, which certainly, if he is an honest and able man, will give greater despatch and do more justice than can be done in the present mode of trials.

Our yeomanry in New England, from the mode of their education as well as from their common and ordinary business, are good judges of the common law of the land; but, when they are called to try causes upon the multifarious principles I have before mentioned, they are lost in mystery. Nor, indeed, can any one have adequate ideas of right in these causes, but he who is able with the closest reasoning to apply the circumstances to the principles of law. I hope, therefore, that Congress will recommend it to the states to drop the idle trial by jury in these causes, and to adopt a system similar to that of some other nation, or form a new system by improving upon those of all nations; and then the intolerable burden of appeals to Congress or their committee may be done away. In the room thereof we shall have a supreme court of admiralty in the several districts, into which the continent may be divided for that purpose; and, as the decisions of these courts will be of the greatest importance, it will be necessary that there should be more than one judge to each; for one is more liable to corruption than more; and the skill and ability of three may be wanted. But it may not be necessary to have appeals in matters of small consequence, such as seamen's wages and the like.

I would further suggest that, as the courts before mentioned must be supported at the public expense, it may be prudent to order a small sum per cent. of all goods that are adjudged prize into the public treasury, to defray the charges.

I am sensible that it is impossible to form a new system,

which at its birth will be perfect. Nor is there any one of another nation, perhaps, that will so aptly apply to our genius and circumstances as to admit of no improvement; but if your supreme courts consist of men of industry, ability, and enterprising minds, they will from time to time adopt such rules as may tend to the perfection of the practice. But these rules should all be submitted to Congress, to meet their approbation, that the practice may be uniform throughout the whole republic. In cases of property claimed by the subjects of neutral powers, a complaint ought to lay to Congress. I will not give you further trouble on this matter; the importance of it must before now have engaged the notice of Congress, and so great is my confidence in their ability and uprightness, that I think they can stand in no need of my assistance.

Be kind enough to present my respectful compliments to the honorable Messrs. Holton and Partridge, and believe me to be, with the most perfect esteem, your most obedient and very humble servant.

TO BENJAMIN LINCOLN.

GROTON, 4 August, 1781.

Yours of the fourteenth of July I received but yesterday. I am much obliged by your information respecting the position of the army, and very sorry that the Massachusetts line is so thin, and badly found. I am certain that if all the effective men raised by this government had reached the camp, the first complaint would not have been founded altogether in fact; as I am much deceived unless full two thirds of our quota have been levied and sent on. But there appears to be a strange remissness in the executive part of our government, which even the new constitution does not remedy. The governor issues his orders well, as did the supreme executive under the former mode of administration; but these orders are a dead letter to the subjects, for the smaller officers do by no means

regard them. Nor do I hear of any one being drawn into question for his contempt of authority, or breach of duty. The towns have been lately called upon for thirty-two hundred men for three months; a great many of them levied at the enormous expense of sixty hard dollars upon an average; but I hear of no one who is to march them. Perhaps many of them, as others have done, will become inhabitants of Vermont, where fugitive villains are privileged as they once were in Rome. The clothing for the army has been ordered, as well as promised, but perhaps never can be provided; for our general assembly in the last session at one blow killed the money and the credit of government. The act which they passed you have undoubtedly seen. Had they agreed to pay the interest, it might have been well; but, by resolving that the treasurer should pay the new money out at one and seven eighths exchange, they renewed the old idea of the dishonesty of the government, and raised such a distrust in the minds of the people, that they even despaired of having the interest paid; and the money is now no more a currency than the ragged remains of a kite. There is not hard money enough to carry on commerce, and a tax is ordered, which will call in all the new emission. But when this is in the treasury, it will be of no avail to the support of the army. And the authors of this distressing measure do not pretend that there will be any other fruit of it than the sinking of the new emission. So that, while our army are disbanding themselves for want of necessaries, we are loading the people with taxes to redeem bills of credit that were not to be redeemed until the end of six years; and exhausting our treasury of hard money to support the credit of a currency which is dead as an almanac of the last century; dead beyond all the powers of resuscitation. And in this way alone you are, my dear general, to expect to thicken and clothe your lines. You tell me to arouse the people to a sense of duty. I can assure you, sir, that I believe

that there was never a better people than we have ; but all their exertions are marred and crossed by having bad measures often adopted and carried into execution with vigor and attention, while good ones are rarely planned, and but badly managed.

I will do all that I can, and, notwithstanding the dolorous strain of this hurried letter, I have no doubt but that we shall do well ; but our remissness may nevertheless protract the war yet further ; and besides it does not seem as if our assistance on the other side of the waters were in a hurry about peace.

TO BENJAMIN LINCOLN.

SPRINGFIELD, 26 September, 1781.

Having received one letter from you since I saw you last, I did myself the honor to forward you a line, which from the mode of conveyance, I have no doubt came safe to hand ; but having received none from you since, I was rather suspicious that it contained something which met your disapprobation. I have consoled myself, from reflections on your temper and character, that you would, with the sincerity you always profess, have let me know if I had done anything which affected you disagreeably. I have a peculiar pleasure and satisfaction in receiving and reading a letter from you, and therefore beg that when you have a minute in which nothing else shall claim your attention, you will think of me.

Seneca says that it is idle to tell our friend that we do not write because we have no news ; but I can assure you, as there is nothing novel here, I am straitened to find anything which would be interesting. Should I descend to the divine doctrine of morality, you were deeply there before I was born ; should I go into the uneasy field of politics, there you are my father, and both of us limited by the lines of constitution. To write to you of the art of war would be the altissimum of arrogance. To talk to you

of judiciary matters within my own department would be as uninteresting to you as foppish in me. And, therefore, having nothing to write, you may inquire why I do not stop my pen? or rather why I took it up to trouble you with that which is of no importance, or nothing at all? I can only answer, you know that when I am with you I love to be in conversation, and thus writing in a familiar way is the best substitute I can find.

The people here are preparing fireworks for a day of rejoicing on the surrender of Lord Cornwallis. God grant they may be needed; but I now rejoice with fear and trembling. Should he be taken, I hope that Washington will not suffer him to come into his presence, but follow Clinton's Charleston example with exact precision. Let the expedition end as it may, I beg for an early account of anecdotes and incidents from your hand. There is nothing new here. Paper money is not even mentioned in trade; but one is given for four, in order to pay the present state tax. There is, however, a scarcity of silver that reduces the price of goods very fast, and it seems the general opinion that there shall be no more paper currency. However, the treasurer pays it out as fast as it comes in, and unless the general assembly puts a stop to that, it will again be in circulation, and again depreciate. Somehow or other the people and their representatives always think differently upon these matters; but all will be well. Take Cornwallis, and we shall have peace.

TO BENJAMIN LINCOLN.

Boston, 16 January, 1782.

Yours of the twentieth ultimo I this day received, and cannot but have the highest satisfaction in the notice you take of me, and feel a peculiar pleasure to see one, on whose singular abilities and more than common integrity I have so much relied in public measures both in the field and in the cabinet, raised by the voice of America to an office of

such infinite importance as that of secretary of war. I thank you for accepting it, and can never entertain a doubt of your improving each of the many talents Heaven hath given you, to the advantage of the world in general, and this country in particular. The command is, "Occupy till I come;" and you are far from being unmindful of this command, or the great Author of it, and hence arises my great confidence in you.

I am very sorry that a loan in Europe has failed, because I can see no way to comply with the requisitions of Congress for the million of dollars. A tax of three hundred thousand pounds has been out some time, and very little collected. There is another, lately assessed, of a like sum, and these I am confident cannot be collected till midsummer; and really, sir, the farms where I live would by no means rent for as much as they have been taxed the year past, if taxes were as moderate as they were in 1774. Thirty per cent. is made on the purchase of French bills, when money at lawful interest cannot be hired by public or private bodies. I am fully sensible of the necessity of spirited measures, and would not have Congress rely too much upon assistance from us. We have lately passed an excise act; but the measure is so universally condemned, that it will, I believe, be repealed this session. It would raise perhaps twenty thousand pounds.

TO BENJAMIN LINCOLN.

BOSTON, 4 November, 1782.

Being quite in private life, I cannot but conceive myself somewhat below the notice of men in high office; but I will, however, assume to address you on the score of former friendship; and, having nothing to communicate, you may be assured that I write only for the satisfaction I feel while I am driving the quill. We have nothing new here. Our government seems rather more out of tone than I

wished ever to see it; but who is to blame I know not. Those who have no hand in it cannot be to blame. I could write you very freely, and would wish to communicate my feelings to you for one moment; but you know the mails are often robbed. Can anything induce you to leave the endearing smiles of a Washington, and reside in your native state?

We are in a great turmoil here about the impost. A writer, who, by the way, I think can have no pretensions to even considerable abilities, fills the Providence papers with noise against it. A certain doctor of divinity, who is busy, if not industrious, in some matters which he hath nothing to do with, republishes them in Gill's paper; and those who laugh at our independence call them fine productions. During the summer there was much excitement about illicit trade, and more than seventy associated to support the law against it; but a seizure being made of goods imported from England, *via* Amsterdam, the associates have petitioned that "all goods coming from England through the country of a power at war with Britain, and in amity with us, should be deemed legally imported." As there is opposition, and the bill is non-concurred in the senate, a committee of conference is now out. The opposition will agree that British manufactures, cleared out in proper offices of our allies as British goods, should come; for they say that there is a difference between bringing British goods through the territory of our allies, and bringing them with the knowledge of the *government* of our allies. This distinction is by some people thought quite a whimsical one; and then the question is agitated whether a trade with Britain will not be of advantage to us. Those who are for it say, that, it being known in Europe that we have a predilection for British goods, the merchants in France and Holland will purchase them, and sell them to us at an advance of thirty per cent. This is opposed by saying that motives of interest, as well commercial as political,

bid those nations to join us, and that nothing but an abstinence from the consumption of British goods will retain their necessary affection. How the matter will issue I know not.

In the midst of these debates appeared one Burges, a member of the house of Champion and Dickenson. He was said to be a clever fellow, and was received as such. I spoke against his appearance, but soon found it unpopular, and to no purpose. The governor and council gave him leave to petition for an act of naturalization; and a vote passed in the house to have his petition committed, before the senate took it up. A resolution of Congress put an end to it. He gave bonds to go away in fifteen days, but is yet in town.

Your son I hear is going to Mendon. I think his genius too good for a place so remote. Mr. Osgood receives a letter from me by this post on Nantucket affairs. I wish you to see it. Perhaps I feel too much for them; let your cooler judgment decide on what is fit and necessary to be done. I have referred Mr. Osgood to this letter. If he chooses to see it, you will do what you please on the subject.

I hope to see you in Boston this winter; but wish you to take the trouble to communicate your ideas, respecting trade with Britain, as soon as you conveniently can. I have no wish to make myself the mark of interested men, unless their measures are wrong; but at present I am against importing any other than prize goods which are of British manufacture. But we are told that Philadelphia is not so cautious; and some hint the Congress do not view matters as I do.

TO BENJAMIN LINCOLN.

Boston, 18 November, 1782.

About two posts ago I wrote you, and therein referred you to a letter by the same post, to my friend Osgood, relating to the situation of Nantucket. I am afraid that I

have in that letter been too warm in favor of those sufferers. If there is anything that may be in the least incompatible with our general welfare, I wish that my feelings may be my apology. I am by no means afraid of my letter's having an undue influence upon you, but thought it necessary to say thus much on the subject.

Our General Court rose last week. The continental tax-bill is put over to the next session. The court passed an excise act, but the governor, I am told, did not approve of it. The two houses requested a recess; he gave them one. They say the bill has become a law, because it laid before him five days before the court was prorogued, and was not disapproved of. He says the recess commenced before the five days were up. It comes to the old question, which was agitated upon the impost, whether the Sabbath is a day included in the five mentioned in the constitution. These debates are very unhappy, and weaken our government exceedingly. Would the General Court have contented themselves to have sat one day longer, it would have clearly settled the dispute. Or had the governor sent his disapprobation in writing, two thirds of the house would not have voted for the bill; or, if they had, it would have ended the controversy.

I rather think the five days included the Sabbath, and that his excellency is wrong; for in our law way, though a Sabbath is no day for business, yet it has always been a day of preparation for business. All writs are to be served fourteen days before court, which fourteen days, as our courts sit, always include two Sabbaths. I have never given the governor my opinion upon the matter, because he never asked it. A law that burthens commerce is very difficult to execute, at best; but, when it is a question whether it is a law or not, must be very inoperative. Had we no parties in the state, perhaps these difficulties would not arise. You may, by attention to the Boston newspapers, perceive that I am accused of being in a party on

the side of the governor; but the suggestion is entirely false. I labored to have the dispute subside, but it will never be settled. However, I rather think, from present appearances, that death will in the course of this winter turn the attention of the partisans to a new object. Who he will be I am by no means able to say.

You have, my dear general, undoubtedly observed in the papers a controversy between me and Mr. Temple. As I know that you are a great enemy to all party matters, I therefore am uneasy lest this dispute should lessen me in your opinion; for I can say with sincerity, that, from the first hour of our acquaintance, your professions of esteem and friendship yielded me very great and singular happiness. I do not know but I may, from the personal abuse I have had, have been betrayed into some imprudences; but I have in this matter acted from the same motive which induced me to be on the side of my country in the day of her danger. I believed Temple to be a man in the employ of our enemies, and therefore opposed his having given him, by the General Court, the character of a first patriot. He saw fit to load me with personal abuse. I, however, persevered, and, as he petitioned to the Court to have his character investigated, I informed the speaker that I was ready to offer evidence of his being a dangerous man. The court ordered me to state the grounds and facts in writing, which I did. Whereupon, those, who before had urged an inquiry, now began to suggest that they had nothing to do with it, and procured an order to have it referred over to the attorney-general. There it rests. My apprehensions from him now appear to be just. He is a kind of idol to the tories, gives dark hints against our allies, &c. The politics of this town are quite altered from what they were. The benefits of British trade are openly avowed; a law lately passed opens a full door, in my opinion, for its encour-

agement, and British subjects are admitted. I hope to see you in town in the course of the winter.

TO HENRY KNOX.

Boston, 17 December, 1783.

I commit the enclosed letter to your particular care. Dr. Cooper's character is so well known, and his person so well beloved, that I need make no apology to you for this trouble. Should his grandson be either in New York, Philadelphia, Annapolis, or anywhere in America, it is of importance that he should be here soon. Any expense that may be necessary to his coming I will defray. Should he be anywhere to the southward, your exertions to forward him will be acknowledged by his friends, and this letter will stand sponsor for the expense.

TO RUFUS KING.

Boston, 25 October, 1785.

I have been honored with yours of the seventeenth instant. You do me great honor in placing any confidence in me. But as there was nothing in your letter but was quite within the rules of decency and decorum, you did not commit yourself by it; and should you ever commit yourself to me, which you can never be under a necessity to do, you cannot do it to one who regards you more. Mr. Parsons is nominated Professor of Law at our University. Mr. Adams, in his letter to me, dated sixteenth of August, says "The ministry are very reserved. I can get no answer to anything." He speaks highly of our navigation act; and is of opinion that we ought to continue it, even though the other states should not follow us. Yet the General Court will repeal or suspend it this session. The consul de France has memorialized against it, and the French agent here does not like it.

The rage is now against exorbitant interest, and they are

making a law that no man shall have a commission or hold an office till he swears he has not taken more than six per cent.

Our friend, Governor Hancock, has been very sick at his country-seat. He came into town last evening. I called upon him. He will soon be better. He has not yet given his answer respecting going to Congress; but I believe he will go. I told him I thought he would be president if he went. He smiled, and said that it would give him great pleasure to meet his old compatriots after the completion of all their wishes; and should be glad to serve his country where he should be most useful, or so far as his health will admit of. By the by, I think the president's chair the easiest in the Union for an invalid; and told him so. You may expect him before Congress shall have a representation of all the states.

TO RUFUS KING.

Boston, 25 February, 1787.

The General Court is sitting to-day. The danger the state is in claims holy time for exertion. The more they do, the more the danger increases. The business of to-day is to determine whether the supreme judicial court shall go up to Berkshire to string up some of the rebels in the rear of the army. This measure Governor Lincoln presses vehemently; but the judges do not love to go. By letters last night from the general, who has three hundred men with him, the rebels are in York state, on Black Creek and White Creek, about three hundred strong, threatening blood and slaughter on the friends to government in Berkshire, as soon as the forces shall be withdrawn. The people in the state are exceeding soured. Boston has its usual prudence. Every countryman who comes in, and offers to apologize for his son or brother deluded, is railed at and called a rebel.

The General Court goes on with remarkable and astonish-

ing unanimity. As there is no opposition, it would be a wonder if the constitution was strictly adhered to. And yet the critical situation of the commonwealth requires circumspection, in order that good men may not be made enemies to the government. The powers of government are so united in the metropolis that it is dangerous even to be silent. A man is accused of rebellion if he does not loudly approve every measure as prudent, necessary, wise and constitutional. God knows where all will end. I have no materials to calculate from, have little to do with politics, and mind my own business.

You may depend upon my taking the same care of your fees as of my own. Our report is in the hand of a committee. Oliver Phelps, I hear, opposes it, as giving New York land they had no right to. There is no money in the treasury. Root drew on Lowell and myself for twenty-three pounds; but we are as yet unable to procure it.

The people think the disqualifying act to be a measure to keep in office those who are now in. The effect will be known in the spring.

TO RICHARD HENRY LEE.

Boston, 11 April, 1789.

Your arrival in Congress gives great satisfaction to the old revolutionists in this state. While I presume to congratulate you on the subject, I wish to indulge myself in the pleasure of mentioning the success of the supporters of your old friend and compatriot, the Hon. Samuel Adams. He has been exceedingly maltreated, or you would have now had him by the hand in the senate of the United States; but the votes in our late elections, a sample whereof is exhibited in the Gazette enclosed, will evince how much he lives in the esteem of his fellow-citizens.

We have a very uneasy party in this commonwealth, composed of the seekers of emoluments under govern-

ment, and of the old anti-revolutionists ; they hate democracy on different principles.

Their imprudence was the sad cause of the disgrace of our people in the year 1786. The measures their influence obtained produced that discontent which ended in an insurrection. They now pant for a rebellion, because they think it would end in a standing army, and finally produce a monarchy. But our people are disposed to live quietly ; and, when Congress shall pay a proper attention to the amendments proposed to the general constitution, all will be easy ; unless a particular partiality is shown by the general government to those who have affected to be its champions. Our people have good sense enough to know that anarchy must end in despotism ; they have all property, and they want laws and government to support and protect it ; they feel as freemen, and they act in that character. However they may be despised and scandalized by men who cannot gain their confidence, they will cheerfully support a good government. I send you some testimonials in favor of General Leonard Jarvis. He is an honest man, and useful to his country.

TO ELBRIDGE GERRY.

Boston, 13 *August*, 1789.

The appointments made for the collection of the revenue are generally agreeable. Mr. Jarvis' friends are sorry he has no notice taken of him ; but they are candid enough to consider the measure as flowing more from a wish to support General Lincoln, whose circumstances call for aid, than from any disregard to the other. We all know the merit of Mr. Jarvis ; and this commonwealth is under great obligation to his talents in the business of finance. Some future opportunity will, we hope, bring him forward to exert his abilities under the general government ; and his friends will feel themselves much obliged by the contin-

uance of your good offices towards him as occasion may offer.

As to the success of another matter, I can assure you I am much at ease about it. If the objection should arise from the principles you suggest, I shall be very easy; for, if offices are set at the price of sacrifice of principles and friends, they are not to be coveted. I consider the name of Hancock the centre of union with the people, and therefore he must be supported; for, whenever the idea of the necessity of three estates in government shall bring forward that of three different orders of citizens, either *jure divino*, or by hereditary succession, there will be a stand made. I am of very little consequence in the drama; but I have risked an unimportant life and my little all in the defence of freedom. I love her, and I love that equality in which she dwells; and, whether in place or not, I will be an honest man.

Your grants are very liberal; the wages I hear nothing about lately. Fenno's paper, which is here considered as the voice of Congress, gives us a solution for some grants. He says that the people are to be bribed to yield obedience to government, and to carry the laws into execution; and, when there is no money, titles and honors may answer the same purpose; but yet, as they only exist upon paper, they may sadly depreciate if they should be too much multiplied. As you go on now, I believe you will not have money enough to buy us all; and the purchase by titles, unless you make a nobility, will not be effectual.

The governor wrote a letter, and the lieutenant-governor wrote another to you on a certain subject. I should be glad to know if you received it. I believe nearly half the council, without any suggestions from me, wrote on the same.

Mrs. Sullivan wishes me to present her regards to Mrs. Gerry, the young ladies, and yourself.

TO ELBRIDGE GERRY.

BOSTON, 30 *August*, 1789.

I am well convinced, for myself, that six dollars is by no means too much for the wages of senators and representatives; and, had your colleagues been ostensibly in favor of the bill, I should have been sorry to have seen you against it. But I did not want to see you ensnared; and, with all your friends, am sincerely glad to see you among the nays. Your sentiments with regard to the support of members, I consider as perfectly just, but as too refined for the taste of the present age. We must take the world as it is, and make the best of it we can in its present state. Your enemies wish to find you in an unpopular singularity, that they may the more completely foil you. They represent you as speaking often, and in opposition to all measures; but the people have confidence in you, and I wish you, for your country's sake, to guard against the loss of it. It would be very idle in me to point you to the numerous instances in past ages where men of integrity and wisdom have been injured by urging measures which, in the succeeding age, have been embraced as the highest refinement of political sagacity.

I am very sensible, with you, that many are driving for a monarchy; but they never can obtain it for many ages yet to come. They injure the new government exceedingly by their clamor on this point; they make the people jealous and uneasy; and, should the attempt be made to encircle the brows of an American with a diadem, a civil war would be the consequence. But, short of that, I think they injure the government, because, by such injudicious and impracticable ideas, they alarm the apprehensions of the people, and prevent their being thoroughly fixed in the support of it.

There are a few here who boast of having everything in their own hands, and who, to keep an influence at court, make false and injurious representations against others.

This will do no good to the governor, and, if the president is deceived by them, he will feel an essential injury from it.

TO SIR WILLIAM JONES.

[On the twenty-seventh of January, 1795, Sir William Jones was unanimously elected a corresponding member of the Historical Society of Massachusetts. The society had soon the mortification to learn that, nine months before the date of their vote, the object of their intended distinction was no more. The following letter, notifying the resolution of the society, was addressed to him by the president.]

Boston, 7 *February*, 1795.

As president, and by the direction, of the Massachusetts Historical Society, I have the honor to inclose you a vote of that corporation, by which you are elected a member of it. You have, also, by this conveyance, a few publications, and a copy of our charter. By the latter you will see as well the legal date as the design of our institution. We possess a large hall, in the centre of Boston, where we deposit those books, publications and other matters, which may have a tendency to fix and illustrate the political, civil and natural history of this continent; and we have been very successful in our attempts to collect materials for that purpose.

Your character, and the attention which the world allows you to have paid to learning of this kind, have induced us to pursue such measures as we hope will obtain your good wishes and friendly regard; and we shall have great pleasure in forwarding to you, from time to time, such other books and publications as we may suppose to be acceptable to you. Any observations from you, or any member of the society in which you preside, illustrating those facts which compose the natural history of America, or of any other part of the world, will be received as valuable marks of your attention. As the correspondence of literary and philosophical societies, established in different nations, is an intercourse of true philanthropy, and has a manifest

tendency to increase that friendship and to support that harmony in the great family of mankind, on which the happiness of the world so much depends, it can never solicit your aid without success.

TO TIMOTHY PICKERING.

Boston, 5 November, 1798.

Justice to my family urges me to trouble you with a private letter on the subject of my compensation. I have expressed to you, in my public letter of this date, what I expected when I was honored with a commission as agent. In your communication of the fifteenth of April, 1797, in discussing the reasonableness of Judge Howell's claim, you say: "The services of the agents I view in a different point of light. The labor of investigating facts in books, documents and living witnesses, and forming a statement of the question to be considered, with lengthy arguments to illustrate and enforce the respective claims, will necessarily demand much time and close application, and require a corresponding compensation." I have before me a copy of my letter on that subject to which I refer. I had not then seen the reply of the English agent, and consequently was ignorant of the field I had to be employed in. I have, since my appointment, devoted myself to the business, but could never have completed, or rather accomplished, what has been done, without the aid of my sons and clerks, none of which, excepting ten dollars to one, was ever charged. I gave up my business in the common pleas, in Middlesex and in Suffolk counties, which was equal to that of any one of my profession in those counties. My son derived some advantage from the circumstance, in Suffolk; but the greater part there, and all in Middlesex, is gone entirely. My absence from the supreme courts has lost me the run of my clients there.

These advantages will never be restored to me. The

judges of the circuit court are settled for life in their offices; but I have to return to my profession, under great disadvantages, in an advanced stage of life. More injury has been done my health by this than by all my professional business; uncomfortable days and sleepless nights have been my experience for these two years and more. I enclose you a statement of my cash account, which will convince you that any deduction from the sum stipulated will injure me essentially. I ask no more than the sum agreed upon; with that I shall be a loser by the business.

I intended to have kept an account of time and expenses; but this was soon rendered impracticable, forasmuch as all my time was taken up in a perpetual round of reading, writing and thinking. The room in my own house was appropriated, and I was generally there. Great expenses occurred in collecting evidence and documents, and would run very high were they all in account. The pain of mind and anxious hours I have had cannot be compensated with money; the reflection that I have done well will be a reward for these. There appeared to be no end to the researches. The arguments were compiled, decompiled and made over again, at various times. The volumes are witnesses of the labor, and I feel assured that I shall not, from any treatment I shall receive from the government, regret it.

Resting assured that, in addition to the inexpressible pleasure of having a good and agreeable termination to this important business, I shall have the satisfaction of the government's approbation, and a ready allowance of my compensation, I remain, with the greatest respect to you, sir, and with many thanks for the aid you have afforded me in the agency.

TO MRS. CUTLER.

BOSTON, 30 *March*, 1800.

MY DEAR CHILD: The same weakness, which I am about to reprove, has prevented my doing that which I have long been convinced was my duty towards you. The feelings of the heart are ever at war with the rational powers of the head; the perfection of our nature is the coincidence of our duty and affections.

Your children are healthy, beautiful, and bear the marks of a strong understanding and extensive capacity. Upon your exertions, in the present moment, depend their happiness, and your future comfort. To speak to you of them is to open on a tender and delicate subject. The two oldest are of an age to come in and go out of a room with propriety, and to sit in company with the appearance of attention and respect. They ought now to exhibit a perfect and absolute obedience to the command of their mother's eye. In a few months more their habits will become obstinately fixed, and you never can gain an habitual submission in their minds to your authority.

You may be grieved at the caution intended in this letter, and may consider it as severe. But it is much better for you to weep at the intrusion of your father, than to waste your tears hereafter at the ill-conduct of your children. He cannot long trouble you, but they may furnish a lasting sorrow.

I advise you to keep your purpose to yourself; but, as soon as the weather becomes warm, to take your children into your chamber, and by degrees, not suddenly, in a resolute and persevering manner, to convince them that they have no rule of conduct but your will; that there can be no dispensation for an absolute obedience to it, and that every act of disregard to your authority will certainly be punished. The idea of whipping may not be necessary; but, if they cannot be absolutely governed without it, then there is evidence that it is necessary. This is a painful

task, I know from experience; but, painful as it is, it is infinitely below the grief and anguish resulting from irregular conduct in our children.

Four weeks' perseverance in the above, or in a similar mode of conduct, will fix in their minds a growing pleasure in the observance of your commands; will afford them a conviction that your will is their only rule of conduct; and will render them emulous to receive your approbation as their highest reward.

There is no circumstance in education which has so pernicious an effect as that of promising children a reward for doing well. They never ought to be required to do more than their duty; and that ought to be exacted because it is their duty to perform it. By way of punishment, and under that idea, it may be proper to deprive them of usual gratifications because they have done wrong; but it will never do to engage to them an extra gratification because they do right. This is to create in them a mercenary propensity, and encourages debasing motives for their conduct. Children bred up in this way will easily be induced to do wrong to obtain the same gratification to which they have been habituated as a reward for doing right.

Your children are too young to embrace a system of reasoning which will point them to the sublime advantages of virtue. They, therefore, must be led, without knowing where they are going, by parental authority, until their riper years shall open their eyes upon those advantages which they shall have been made to achieve when their feelings were in opposition to the pursuit.

TO JAMES MADISON.

Boston, 20 *May*, 1802.

Having the honor of receiving your letter of the tenth instant, I hasten to communicate to you my ideas of the subject-matter of its contents. When I was under a com-

mission, as agent of the United States, on the controversy with Great Britain regarding the river St. Croix, I forwarded to the office of secretary of state a map of the Bay of Passamaquoddy, of the Schoodiac, and of the lines of the whole dispute. That map was accurately and elegantly composed from astronomical observations and actual surveys. As that map is under your eye, there is no need of my sending a fac-simile ; but I refer you to that for an explanation of this letter. The treaty of 1783 with Great Britain evidently contemplates a river, as the St. Croix, which has its mouth in the Bay of Fundy.

Both rivers claimed by the parties empty their waters into the Bay of Passamaquoddy. The agent of the United States urged the commissioners to settle the boundary through that bay to the sea ; because the treaty expressly recognized the mouth of the river as in the Bay of Fundy, which is a limb of the ocean ; and the other bay united with it might be considered as the river's mouth. But they declined, on an idea that their commission extended no further than to an authority to find the mouth and source of the river ; and that, let whichever be the river, it had its mouth three leagues from the sea, in Passamaquoddy Bay ; they, therefore, limited their decision, on its southerly line, to a point between St. Andrews and the shore of the United States. The whole of the waters of Passamaquoddy eastward and northward of Moose Island, and of the Island of Campobello, are navigable for vessels of any burden. The channel between Moose and Deer Islands is the best. That between Moose Island and the continent of the United States is shoal, narrow and not navigable for vessels of consequence. The west passage, between Campobello and the main, is rendered hazardous and dangerous by a bar of rocks, and is so narrow and shoal that no vessel of considerable size will be risked there, excepting on a fair wind, and at the top of high water. The tides are exceedingly rapid,

and rise near about forty feet; therefore, any settlement which would deprive the United States of a free navigation as far to the eastward and northward as the channel you propose, that is, to the one between Moose and Deer Islands, and north of Campobello, would ultimately destroy the important commerce and valuable navigation of an extensive territory within the United States; for, as you may observe on the maps, there is no river of consequence between the Schoodiac and the Penobscot; and the waters which issue from numerous and extensive lakes in the interior parts of the country, and run into the sea, like the Schoodiac, give an advantageous and invaluable transportation to the articles of commerce.

Your construction of the treaty of 1783, which renders the waters dividing the nations common to both where they are navigable, must be reasonable and just. The English people have, in many instances, practised upon the treaty under such a construction. There has been no interruption to American navigation in any part of Passamaquoddy Bay; but our vessels have proceeded through that bay to the shore of the United States, at and near Moose Island, and have gone into the Schoodiac above St. Andrews Point, and anchored on the western side of the channel, where they have discharged their cargoes. There have been some seizures where goods have been carried from these vessels over to the English side; but the goods have been condemned, and the vessels discharged. Seizures, made within the jurisdiction of the United States, as to the vessels, would be clearly infractions of the law of nations. There was a seizure lately made of a vessel of Mr. Goddard, of Boston. She was taken from her anchor on the American side of the channel, in the river established by the commissioners as the St. Croix, and carried over to New Brunswick; but she was acquitted by the court of admiralty, with damages and cost. Campbell, who made the seizure, appealed to England, merely to avoid the

costs and damages, where the cause is now depending, under the attention of Robert Slade, a proctor, who is the advocate of Mr. Goddard.

There is a clause in the treaty, that the United States shall comprehend the islands within twenty leagues of any of the shores of the United States, and lying between lines drawn due east from the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, as they shall respectively reach the Bay of Fundy and the Atlantic Ocean. This circumstance, that the mouth of the St. Croix is settled to be between St. Andrews Point on the east, and the American shore on the west, three leagues within the Island of Campobello, draws this consequence to the treaty, that nearly all the islands in Passamaquoddy Bay are within the United States by the above provision in the treaty, unless they are taken out by an exception which I shall presently notice. A line due east, as you will see on the plan, from the Schoodiac mouth at St. Andrews Point, takes in nearly all the bay. A line south 67° east, will go to the north of Campobello, and take two thirds of Deer Island on the west. A south-east line from the middle of the Schoodiac mouth passes on the channel between Moose and Deer Islands, and through the centre of Campobello. The consequences attached to this provision may be, in some measure, controlled by an exception annexed to it in these words: "excepting such islands as now are, or heretofore have been, within the limits of the province of Nova Scotia."

The island of Campobello is confessedly within the exception; and, therefore, it may be said that the principle of common privilege to navigable waters will not give our nation a right to a navigation northward of, and between that and the other islands in the bay; because that they, being all within the same exception, the right of common navigation in both nations may not extend to the waters between that and them. But the answer to this is,

that the clause establishes the jurisdiction of the United States, by lines which clearly include all the islands in the Bay of Passamaquoddy, and all within the Bay of Fundy comprehended to the south of the east line drawn from St. Croix; while the exception can extend only to the islands now or formerly within the jurisdiction of Nova Scotia, inclusive of the privileges necessary to their occupancy. The principle, therefore, of the common right to navigation on navigable waters which divide two nations, cannot apply here; because, in that case, the line of national jurisdiction settled on the channel; but here the jurisdiction is definite, express and ceded according to the lines agreed on as above described.

The ancient charter of Nova Scotia to Sir William Alexander, in 1638, included all the country from the Kennebec to the Bay of Chaleurs. The treaty cannot mean, by the expression, "heretofore within Nova Scotia," all the islands in that charter. If it means the islands which were within a more recent description of it, where the boundary westward was the St. Croix, excluding the territory of Acadia, which was placed under the jurisdiction of Massachusetts by the charter of that province, in 1692, and bounded on that river, the river Schoodiac being now the established St. Croix, there can be no question in regard to Massachusetts extending to the channel, where it joins that river. But Moose Island, which I have described before, lies two leagues below what the commissioners made the mouth of the St. Croix, and very near the American shore. This was never granted by the crown of England, or by the government of Nova Scotia, before the treaty of peace; nor was there ever an occupancy of it by subjects acknowledging the authority of Nova Scotia, nor did that province ever attempt to exercise authority there. Long before the revolutionary war, it was in the occupancy of people of, and from, the late province of Massachusetts Bay. The soil has, I believe, been granted

by that province, or by the state, since the Revolution, to the people who had it in possession. I do not know the date of the grant. There have been, as I am informed, recent grants by the province of New Brunswick, of that island; but no formal claim on the part of the English nation has been made to it. The grantees of that province, who have speculated on the pretended right of the English nation, have excited civil officers, under the authority of the province of New Brunswick, to attempt to execute precepts there; but these attempts were repelled; and I have not heard that they have been recently renewed. Should the jurisdiction of that island be found within the English authority, there can be no doubt how the right of property would be settled. This renders the dispute of consequence to the commonwealth of Massachusetts in a pecuniary point of view.

If the argument above stated does not prove that the jurisdiction of the United States is extended to all the waters of Passamaquoddy Bay, but that the treaty leaves the navigable waters of the same the national boundaries common to both, it is of great consequence that any claim, made under the crown, of the English empire to Moose Island, should be subverted. But, if their having the island under the reservatory exception, does not deprive the United States of the jurisdiction on all the waters southward of the east line drawn from the mouth of the Schoodiac, the consideration of the property alone gives consequence to the question. The channel, where the waters more directly issue from the Schoodiac to the Bay of Fundy, between Moose and Deer Islands, and between Deer Island and Campobello, as described in your letter of instructions to the minister, is quite adequate to all the navigation of our country. You mention a resolve of the legislature wherein the subject of the navigation in Passamaquoddy Bay is mentioned. I have attended to a resolve of the tenth of March, which pro-

poses that the governor should request the president of the United States to take measures for settling the disputed jurisdiction to certain islands in Passamaquoddy Bay; but I do not know of any dispute in that bay, as to islands, excepting what I have stated as to Moose Island.

The settlement and plain establishment of a line from the head or source of the Chaputnatcook, which is the source of the St. Croix, and empties its waters through a long chain of lakes into the Schoodiac, has become necessary, because that Massachusetts is making grants of the lands in that quarter, and the province of New Brunswick is in the same practice. Controversies may be created by interfering locations in pursuance of, or under pretence of, these grants. Such controversies can have no guide to their adjustment, excepting lines drawn through a vast extent of wilderness, where many known and unknown causes will affect the magnetic variations. These disputes on national, or even colonial or state jurisdictions, are not easily settled when they are connected with private claims.

By the treaty of peace it is provided that the boundaries shall be "from the north-west angle of Nova Scotia, namely, that angle, which is formed by a line drawn due north from the source of the St. Croix to the highlands, along the highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River." You will see, by the maps of that part of the country, that the line which runs north from the source of the St. Croix, crosses the river St. John, a great way south of any place which could be supposed to be the highlands; but, where that line will come to the north-west angle of Nova Scotia and find its termination, is not easy to discover. The boundary between Nova Scotia and Canada was described by the king's proclamation in the same mode of expression as that used in the

treaty of peace. Commissioners, who were appointed to settle that line, have traversed the country in vain to find the highlands designated as a boundary. I have seen one of them, who agrees with the account I have had from the natives and others, that there are no mountains or highlands on the southerly side of the St. Lawrence, and north-eastward of the river Chaudière; that, from the mouth of the St. Lawrence to that river, there is a vast extent of high, flat country, thousands of feet above the level of the sea in perpendicular height, being a morass of millions of acres, from whence issue numerous streams and rivers, and from which a great number of lakes are filled by drains; and that the rivers, originating in this elevated swamp, pass each other, wide asunder, many miles in opposite courses, some to the St. Lawrence, and some to the Atlantic Ocean.

Should this description be founded in fact, nothing can be effectively done, as to the Canada line, without a commission to ascertain and settle the place of the north-west angle of Nova Scotia. Wherever that may be agreed to be, if there is no mountain or natural monument, an artificial one may be raised; from thence the line westward to Connecticut River may be established by artificial monuments erected at certain distances from each other; and the points of compass from the one to the other may be taken; and the ascertaining the degree of latitude, which each is placed on, from actual observation, may be very useful. Though there is no such chain of mountains as the plans or maps of the country represent under the appellation of the highlands, yet there are eminences from whence an horizon may be made to fix the latitude from common quadrant observations. In the description of the morass, which is said to crown the heights between the United States and Lower Canada, it ought to have been noticed that, though those swamps are vastly extensive, yet, in the acclivity from the Atlantic to their highest ele-

vation, as well as in their declivity to the St. Lawrence, great tracts of valuable country are interspersed. On the banks of the river Chaudière, and, perhaps, on the banks of other rivers running to the St. Lawrence, the settlements are fast approaching towards those of the United States. This circumstance will soon render an established line of national jurisdiction absolutely necessary.

TO JOSEPH S. BUCKMINSTER.

Boston, 2 April, 1806.

The sunbeam glances horizontally on my table. I am amused at the recollection of our loose conversation last evening. In the urgent chat of the supper-table men may guard their actions, but words fly at random. When you said that, if a man should insult you in the street by words, you would knock him down, you only meant to express that deep resentment which the human heart must feel from a gross insult. And when I said that, if a man of Colonel Welles' rank and character should insult me on 'change, I would not live in one world with him without satisfaction, I meant no more than to express the vast injury which open, gross insults, given by men of character, may do to a mind of sensibility. I believe you will never become a striker, or involve your interesting character in the difficulties of a rencontre. As to myself, my plan is fixed, that if I injure any man, I will make him satisfaction; if any one injures me, the circumstances of the insult must determine the event.

We attempted last evening to decide, in a desultory manner, what would employ the powers of moralists for days. Duelling ought to be reprobated; but the apologists for it ask what are the wars of nations but duels on a larger scale? One side or the other is wrong; but great and good men are engaged on both. What manner of hearts have they who contemplate, with satisfaction, the battles of Trafalgar

or Austerlitz? Murder is the only species of homicide punished with death. That is defined to be a homicide with malice aforethought. Judge Blackstone says that this malice aforethought consists in a heart void of social duty, and fatally bent on mischief. How far modern duellists, who think they are fighting to regain a lost reputation, are within the description, I do not know. The trial by battle was a trial of a legal issue within three centuries past; and the laws against challenges were no doubt made to eradicate the barbarous process. There are species of homicide, which, from the nature of the provocation, are justifiable and excusable; and yet the eye of the severest moralist must allow that this is the result of a regard to public opinion. I admired your elegant sermon against the love of human applause; but, while there shall be two of our race on the earth, it will be here. It prevails as much in the monastic retreat as in the field of battle. A man slays him who demands his purse on the highway, or the thief who breaks his house in the night. Why should this be justified? Would you kill a man to save your paltry purse, or an idle, useless piece of plate? A man spits in another's face, or fillips his nose; the man assaulted draws his sword and kills him. This is no more than manslaughter, and would have but a slight degree of punishment. "But," says Lord Hale, "it is an insult which few spirits can bear. Where a man can appeal to the social compact for defence and remuneration, he has no apology for becoming his own defender or avenger; but when local circumstances or public opinion places him beyond the reach of social security, he may be embarrassed; but with what degree of guilt, the exigences of each case must determine.

The public sensibility has a great influence in society. Should our governor and council send a request to New York for Miller, should he be delivered up and condemned, do you believe that the public mind in this vicinity would not be greatly agitated on the process of his execution?

Or, should Rhode Island demand our young duellists, whose case introduced our conversation, would the people of Boston go with satisfaction to see them carted, with halters on their necks? Subvert the cause, and the effect will cease. Provide penalties to prevent insult; cause the ear to cease from delighting in slander, and the cruel calamities of duelling will not be seen in society. But you are relieved by Edward's approach with the dressing-board to your friend and servant.

J. S. RUCKMINSTER IN REPLY.

Boston, 3 April, 1806.

I know not whether you expected a reply to the letter with which you favored me yesterday morning; but, upon reading it, I was strongly tempted to put down a few thoughts on paper, and should have done it yesterday, but all my time was taken up in preparation for to-day. By sending these lines, however, I have no intention of drawing you into a troublesome discussion of the question of duelling.

I thank you for your explanation of what I uttered, perhaps too hastily, that I would knock a man down who should insult me in the streets. How far it would be consistent with the spirit of a Christian, I dare not say; but, at any rate, I meant only to express the probable effect of strong passion, irresistibly excited in a mind so imperfectly regulated as mine. I do not think, however, that this affords any parallel to the revenge taken in a duel, because the first is done in a passion, the last in cold blood.

Allow me also to say that I am too sensible of my ignorance of law to question whether the cases you have stated, where murder in defence of one's reputation is softened by our laws into homicide, are parallel to that of the duellist, who deliberately kills his enemy out of regard to his own character. Though it is permitted to kill an adulterer, the action is justified, I conceive, not because it is done out

of regard to reputation, but because it is a provocation which unavoidably excites immediate resentment. In the other instance, too, in which a man is killed in the act of breaking into a house in the night, or of taking your purse on the highway, the murder is palliated, not because it is committed in defence of our property; for, if this were the reason, it would be equally justifiable to kill the one in the daytime, and the other when he offered no violence, or craftily picked your pocket.

If duelling were any redress of the supposed injury,—which it plainly is not, because the chance of being killed is equal to the injurer and the injured, and, even if the offender were always to fall, the other's character is not cleared in the sight of God or man,—yet I conceive nothing can authorize us deliberately to seek satisfaction in the blood of a fellow-creature, in cases where we ourselves are the unauthorized judges of the injury received, and where there is no standard but our own feelings, or the fickle opinions of the world, by which the injury can be estimated. If the unauthorized laws of honor may be allowed to create exceptions to express commands of God, there is an end of all laws, human and divine. If a man may redress his own wrongs by killing his neighbor, when he cannot appeal to the social compact for defence and remuneration, I see not why he may not challenge him for not taking off his hat to him in the street, as well as for insulting him more grossly. I see not why a man may not make his own notions of honor the standard, as well as the opinion of the world. My dear sir, the only question on this subject is this: whether a regard for our reputation is sufficient to justify us in deliberately taking away the life of another. When, after these secular reasons, if I may so call them, I turn to the spirit of Christian morality, I can hardly forgive myself for proposing the question.

Excuse the haste and inaccuracy with which these lines are written. Having a few moments to spare, I thought I

would venture to suggest these remarks, which, however, I presume are already familiar to your own mind, since the subject of duelling is common topic of discussion.

TO JOHN L. SULLIVAN.

Boston, 13 *December*, 1806.

I wrote you yesterday by the Olive Branch, for Rochelle, and shall not weary you with a distressing repetition of the sudden death of your brother. You will have the melancholy tidings by numerous channels. Distressing as this catastrophe was, my reflections very soon alarmed my fears on your account; but the goodness of your brothers, William and Mr. Amory, eased my mind very soon, by assuring me that the company's books were completely regular, and their credit and circumstances well.

This opportunity is improved merely to give you support, and to proffer that advice which cannot be unseasonable now, and which I may not live to give you verbally. Life and all its enjoyments are uncertain; we know not what a day may bring forth. On the twenty-seventh of November, thanksgiving-day, my children and grandchildren surrounded my table; the pictures of those absent supplied their places. The next Thursday, that family, which had the day week before been the most happy in the world, was the most distressed. This was the will of God. "Father, not my will, but thine be done."

There are circumstances in your situation severely trying. Yet others have their lot. We do not feel the weight of other people's afflictions, while our own sit heavy on us. If you return with resolution, claiming your rank as a merchant, your uncommon advantages will support that respectability which will make you comfortable, and bring your children, who are uncommonly promising, into life with credit and advantage. But if you suffer your adversities to depress you, you bereave the dear

creatures of their only natural hope, and are guilty of a rebellion against your Maker, who governs the world in righteousness.

My dear John, I have a claim upon you. It is founded in natural morality, and you cannot reject it. I was at a very early stage of my life elevated to the first councils of my country, and exalted to the first seat of justice. The paper-money system reduced me to the necessity of abandoning the idea of giving you and your brothers an education which would bring you into the world under the first advantages, or to descend from the bench to the bar, enduring again the toils of a professional life. There was not one moment's hesitation in choosing the latter. How could I hesitate when I glanced my eye on my beloved family? Your mother I saw, in the full possession of life, vigor, beauty and goodness, at breakfast in the morning; as the shades of evening thickened, she expired in my arms.

My charge was increased with the pleasure of performing it. No family in Boston has come into life with more reputation. I have been amply rewarded by their uniform obedience and duty. Yet you are, from these considerations, laid under an indispensable obligation to do for your children what I have done for mine. You have the means at hand, and nothing to discourage you. I will not rend your heart by suggesting that my time will be too short for you to make me the returns of filial duty. My health is remarkably good, and we may yet rejoice together as a happy family.

APPENDIX C.

WHEN Judge Sullivan was candidate for the chief magistracy, his political opponents, doubtless from a belief that the general welfare depended upon their continuance in power, spared no pains to defeat his election. To shake his hold upon the public confidence, they subjected his whole career to the most rigid scrutiny, that they might find some ground for censure which would tell to his disadvantage. They were completely unsuccessful, for every charge alleged against him was easily disproved. In the fifth chapter of this volume these charges are all mentioned, and all but two or three abundantly refuted ; but, from a wish not to burthen the text with what might weary the reader, a few explanatory statements and documents have been reserved for this place. His freedom of comment upon the measures and motives of the federalists, in his *Federalist* and other contributions to the press, in high party times, sufficiently accounts for the exasperated feeling which actuated this bitter warfare ; and while it is to be taken for granted the charges would not have been made if believed to be false, the same amicable spirit demands that, as they were shown to be without foundation, they should not be remembered to his discredit. His memory is dear to his descendants, and should be also of some value to the commonwealth, of which he was for nearly forty years a faithful officer ; and as the gazettes in which the allegations appeared are preserved in public libraries, it seems right to place at hand, in a form easily accessible and sufficiently explicit to satisfy every candid reader, their full refutation. Few public characters have ever passed a more searching ordeal ; and, as he was found to be blameless, he is fairly entitled to the benefit. In the case of Bosson the barber, who had bought an estate of the commonwealth to which the title had failed, and claimed indemnity, the allegation against Judge Sullivan was that he charged to the state a fee of twenty dollars, which ought to have been paid him by Bosson. His explanation is as follows :

“ Bosson was sued by Martin in the circuit court, October, 1801, for a house and land. I believe he might be induced to apply to me because I was attorney-general. He said he had purchased the estate of a com-

mittee of the commonwealth, in 1782. I told him I had no official concern in the business, until the legislature directed it; that he had better go to an attorney and obtain a continuance of his cause, and petition the government to defend him, if the general court should choose to do it. He desired me to obtain the continuance and draw him a petition, which I did on the twenty-eighth January, 1802. The general court passed a resolve that the attorney-general should defend the suit at the expense of the government. I supposed the government did not mean the expense which had taken place before the resolve was passed. However, I gave credit in my account for the twenty dollars, as paid by Bosson, that if the court assumed the expense which had arisen before the resolve of the twenty-eighth, he might have the money back again, and my fees before the resolve be charged to the one hundred and fifty dollars I had received on the twenty-second (by resolve of the legislature for the expenses of civil suits). This is mentioned because those malicious fishers for mischief are looking that case up to form it into a slander. The tenor of the resolve of the twenty-second shows that the general court do not consider the salaries of the attorney and solicitor generals as a compensation for their services in civil suits, but for their official duty in criminal prosecutions, and my accounts have always been allowed. I have no public money but that one hundred and fifty dollars to account for. I have received none but what I have receipts for.

"Boston, March 24, 1806.

JAMES SULLIVAN."

CASE OF WHITEMORE.

Vol. II., p. 156.

Being well acquainted with the history of the case exhibited in the Sentinel of Saturday last, charging Judge Sullivan with aiding Samuel Whittemore, late of Cambridge, deceased, in crimes which the writer calls worse than robbery, I deem it a duty not only to the character of the living, but to the dead, to make the following statement:

Samuel Whittemore purchased of the late Col. Goff a right of land in Hollis, formerly a part of Dunstable, in New Hampshire. Goff purchased said right of one Parker, a proprietor in said Dunstable. This right was purchased in a state of nature, one lot of which lay near the centre of the town of Hollis. Said Whittemore made a demand of the land prior to the revolutionary war; but by reason thereof was prevented from adjusting his claim until the peace. Soon after that period, said Whittemore, being then upwards of ninety years old, employed his sons, Samuel, Thomas and William, to prosecute his claim. Before any suit was commenced, one David Wright, who said he lived on or near said land, called on said Whittemores, and informed them he was well acquainted with the circumstances of their claim, offered his assistance,

and entered into a written contract to pay all the cost of prosecuting the same. The action was brought by Mr. Atherton, of Amherst, and when the trial was coming on, in the superior court, Judge Sullivan was engaged to plead the cause for fifty dollars. But not being acquainted with said Wright, the said Whittemores became sureties to him for payment of Wright's note. Judge Sullivan plead the cause to the satisfaction of said Whittemores, and this was all he had to do with the business, except to receive his payment, which I made about three years since. Goff bought the land at two different times, and had two deeds thereof. The action was brought for the whole; one deed, however, was mislaid, and could not be produced in court; therefore the jury gave a verdict in favor of the defendants. An action was brought before a justice of the peace, at Groton, for the recovery of costs. Thomas Whittemore defended, and the cause was carried to the common pleas at Concord. Samuel Whittemore, Jun., found the said Wright there, and demanded of him the discharge of the bill of costs, according to his contract, and he did discharge it accordingly.

The above-stated facts I know to be true, having acted in this business in behalf of Thomas Whittemore.

WILLIAM WHITTEMORE, JUN.

Cambridge, March 25th, 1806.

LETTER OF OLIVER PHELPS.

Vol. II., p. 144.

Your favor of the fourth is received. The subject is of a very delicate nature. It seems the object is to affect the election of Judge Sullivan for governor. What office Mr. Sullivan now holds, or what he may have in contemplation, is not, as you will easily conceive, a subject in which I am personally interested. There has some difference in sentiments taken place between Mr. Sullivan and myself, respecting the statement of his accounts with me and the commonwealth, principally arising from the manner of stating the interest account or the difference in time between his receiving the money and paying of it over to the treasurer, as the heirs of Mr. Gorham and myself are only allowed at the time it was delivered to the treasurer, which makes a difference of about two thousand dollars.* With respect to the note you mention, I did give Mr. Sullivan

* This sum may seem large, and to prove want of becoming promptness in making his payments into the treasury. But, as by reference to page 144 of this volume will be found, the notes were fourteen in number, against ten different individuals, and in all more than two hundred thousand dollars in amount, and the interest and principal were paid in instalments and driblets at different periods through the course of several years. Much of his time away from home, and his thoughts always employed in complicated and engrossing affairs, that there should

such a note, though not from compulsion, but by a fair agreement between him, Mr. Gorham and myself, namely: After we had completed our agreement with the commonwealth for the purchase of the Genesee country, Mr. Sullivan, Gov. Strong and Mr. Sedgwick, applied to us for a small interest in our purchase; or I believe it was understood before we made the purchase that Mr. Sedgwick was to have a small interest. We agreed that each of them should have a small share, and they made us some small advance. Some time after this, a dispute took place respecting Presqu' Isle, and a suit was brought against Mr. Gorham and myself. Mr. Sullivan soon after came to me, and, as a dispute had taken place which would make it improper for him to hold his concern in the purchase, he told me that I might consider him as not concerned, and that the small sum he had advanced I might repay at any time when convenient. The business lay in that situation till the whole business between Mr. Gorham, myself and the commonwealth, was all settled. Some time after this, being in Boston, in conversation with Mr. Sullivan, I told him that notwithstanding he had, under certain circumstances, declined taking the Genesee lands, yet, if he chose to continue the concern, he might do it. He thanked me for the offer, and told me that he would, as the business was then settled with the commonwealth, wish to continue the concern. Some considerable time after, I settled with him, and he agreed to give up his concern in the land. I then gave him the note you mention, which has since been paid. That on the whole, whatever I might in some warmth have said on the other subject respecting Mr. Sullivan's conduct, I must now, as an honest man, say that the note was, by a fair agreement between Mr. Gorham and myself, justly due; and I have no right to accuse him of dishonesty, or anything dishonorable, as it respects the note.

I am, with esteem, your humble servant,

OLIVER PHELPS.

Washington, February 18th, 1805.

REPORT ON ACCOUNTS OF ATTORNEY AND SOLICITOR GENERALS.

Vol. II., p. 190.

The Hon. James Sullivan was appointed to the office of attorney-general, on the 12th day of February, A. D. 1790; the Hon. Daniel Davis was appointed to the office of solicitor-general on the 29th day of

have been unavoidably some delay of payment was to be expected. As it was not an official duty, but a mere matter of accommodation to the parties, as he did not use the money, and charged no commission for collecting it, no allowance of interest could be fairly demanded.

January A. D., 1801, and they have respectively continued to hold said offices from the aforesaid periods until the present time. During these periods various grants of money, in addition to their stated salaries, have been made to them by order of the general court, in consideration of special services, and for the executing of various agencies, not appertaining to the ordinary duties of their offices; all of which, so far as these agencies have been completed, have been satisfactorily accounted for in the course of settlements which have from time to time been made with committees of the general court for that purpose appointed, and whose doings have been sanctioned by the two branches of the legislature. In various instances, in which moneys belonging to the commonwealth have been received and collected by the attorney-general as their agent, the same have been in like manner faithfully accounted for, either in his settlements, as above mentioned, or by paying them over to those officers who were entrusted to receive them.

Previous to the enactment of the law on the twentieth day of February, A. D. 1790, no stated salary was allowed to the attorney-general for his services in that capacity, but his compensation consisted of the occasional costs which were taxed for attorney's fees, travel and attendance in both criminal and civil suits in behalf of the commonwealth. By a law passed on the said twentieth day of February, it was provided "that the said attorney-general should be allowed and paid the sum of three hundred pounds, in full compensation of his services, and that, in all bills of cost in criminal prosecutions before the supreme judicial court, the sum of fifteen shillings should be taxed for the fees of the attorney-general, without any allowance of travel, and all fees thus received by him should be accounted for annually with the treasurer of this commonwealth."

As this law provides that the attorney-general shall account for costs thus taxed "in criminal prosecutions" only, he has ever supposed himself entitled to the amount of all fees which have arisen from costs taxed in civil suits in behalf of the commonwealth, of which nature are actions of *scire facias* upon recognizances forfeited to the government. This construction appears to have been sanctioned at various times by the general court, in the repeated allowance which has in years past been made to the attorney-general for costs thus accruing, on the settlement of his accounts. The same construction of this law, and the same practice under it, has been adopted by the solicitor-general, whose salary and official emoluments are placed on the same footing by law since his acceptance of that office, and it does not appear until of late to have been brought in question; and your committee are, for these reasons, of opinion, that such construction and practice is reasonable and proper, and ought not now to be questioned or disturbed.

In relation to the attorney's fees, which by the before mentioned law

are taxed on bills of cost in criminal prosecutions, it does not appear, from all the evidence exhibited to your committee, that any considerable sums have been received by the attorney-general, during the long period in which he has exercised that office, from the sheriffs of the respective counties, or the several county treasurers, who have at different periods been charged with the receipt and disbursement of these costs; and it does not appear that any such sums have been received by the solicitor-general since his accession to that office; various small sums, amounting to two hundred and forty-six dollars forty-five cents in the whole, so received by the attorney-general, have however at different times been accounted for by him with the government in the course of settlements, as above mentioned. They have examined fully into all the cases wherein any competent evidence has been adduced of particular sums so received, and which it was suggested had not been accounted for. Upon such examination it appears that all such sums have been credited to the commonwealth, and accounted for by the attorney-general, excepting a sum of eighteen dollars, which, by a statement from the treasurer of the county of Worcester, appears to have been received from him before the year 1795. From the short period which the attorney-general has now had to investigate all his pecuniary concerns with the government, as well as from the length of time which has elapsed since the receipt of the aforesaid sum, your committee doubt whether justice requires that the attorney-general should be put to the burthen of revising concerns of so long standing for the sake of correcting a supposed error of so trifling an amount. If, however, upon more leisurely investigation, no evidence should be found of the manner in which that particular sum was accounted for, the attorney-general has at this time no objection to correcting this or any other error which shall appear to have occurred in the course of his settlements, should such investigation be thought by the legislature an object of sufficient importance. Your committee further find that the sums which have been received from the treasurer of the county of Hampshire by the attorney-general, for fees taxed on criminal prosecutions as aforesaid, exceed the amount which he has paid to the government, by a sum of twelve dollars and fifty cents, but which, in justice to the attorney-general, it ought to be observed, has arisen altogether from a former error committed by said treasurer. In the year 1802, the attorney-general had accredited to and accounted with the government for the sum of sixteen dollars and twenty-five cents, as received of said treasurer. In June, 1806, he exhibited to the committee of this house, appointed to adjust and settle his accounts, a further credit of one hundred and ninety-eight dollars and ninety cents, as received from said treasurer, which added to the sum so before credited, amounted to two hundred fifteen dollars and fifteen cents in the whole; which he con-

sidered himself liable to account for with the government. At the time of the last mentioned settlement, a detailed statement of all sums said to have been received from said treasurer, on that account, was laid before the committee by one of its members ; which statement was certified as a just and true one, under the hand of said treasurer, and amounting to only the sum of two hundred and two dollars ; an amount less than that which had been credited to the government by the attorney-general by the sum of thirteen dollars and fifty cents. Upon a view of this certificate, and relying upon the superior accuracy of its details, the attorney-general, at the suggestion of the committee, varied and reduced the sum which he had thus credited, so as to conform the same to the amount certified by said treasurer. By a subsequent statement, said to be taken from the books of said treasurer, it now appears that his former statement was incorrect ; and that the credit which had been at first given by the attorney-general was correct, and conformable to the statement now exhibited from the office of said treasurer. It therefore results that if any error has intervened in the premises, it has been occasioned solely by the erroneous certificate of said treasurer, as above mentioned, and not from the error of the attorney-general. By the certificate of the treasurer of the commonwealth, it appears that there is no account remaining in the office of said treasurer of any sums there paid by the attorney-general, in his said capacity, between the years 1790 and 1795.

There is one further transaction, which has been made a subject of inquiry by your committee, and which it is deemed material to state and explain, as, from the form which it assumes on the records of the government, it has been exposed to much misconstruction.

In the month of June, 1801, John C. Hauff, consul from the king of Sweden, resident in the United States, preferred his petition to the legislature of this commonwealth, stating that one Elias Norberg, a native of Sweden, had deceased in this state, leaving personal estate to a large amount in the hands of Ebenezer Dorr, of Boston, who had administered thereon ; and that said Norberg had heirs in his native country legally entitled thereto, but who were unable at that time to pursue and establish their said claim ; and praying the aid of government for the purpose of compelling the said Dorr to pay the same into the treasury of the commonwealth, there to be kept for the benefit and use of said heirs, whenever they should so establish their claims. Upon which petition a resolve of the general court passed, authorizing the attorney-general to take such measures as he might think proper to procure the amount of such estate, to be paid into the treasury, and there retained until some person should appear, legally entitled to receive the same. Pursuant to this resolve, it appears that the attorney-general did, after a protracted series of trials in the inferior and superior courts of probate, procure a decree that the

proceeds of said estate, amounting to more than eight thousand dollars, should be paid into said treasury, deducting first the expenses of administration, together with the costs of said attorney-general, amounting to two hundred and three dollars, in the procuring of said decree, as the same were allowed by said judge of probate, with the consent of said consul. The aforesaid sum has since been paid into said treasury, accordingly, and by a subsequent resolve of the general court is ordered to be paid to the heirs of said Norberg, whenever they shall establish their claims thereto in the manner pointed out by said resolve. So that this commonwealth can have no interest at all therein, except through a total failure of heirs on the part of said Norberg, who, as appears by official documents, have already established their title in the judicial courts of Sweden, and the necessary evidence to confirm it here is soon expected by said consul. It appears, therefore, that this commonwealth have ever been considered as only the trustees for the heirs of the said Norberg, for the sake of affording them a safe deposit for their property; that although said process was conducted in the name of the government, yet that name was permitted to be used merely from motives of courtesy to the agent of a foreign government, and was conducted entirely under his direction and advice; and that, as the attorney-general received said two hundred dollars by the express allowance of said consul, acting as the agent for those who are alone eventually interested therein, his receipt thereof was strictly proper, and his right to retain it cannot with propriety be questioned.

Upon a view of the whole subject, your committee ask leave to report, as the result of their inquiries, that there does not appear to be any reason for supposing that any public moneys have at any time been intentionally or improperly withheld from the government, either by the attorney or solicitor general, since their acceptance of these offices; and that, if any errors have occurred in the course of their accounting with the various departments of government, they are probably of inconsiderable amount, and as few as might reasonably be expected in so long a period, and in relation to concerns so various and extensive.

All which is respectfully submitted.

WM. KING, *per order*.

The investigating committee had the above subject before them from the twelfth to the twenty-fourth of February, when they offered their report. It was then read and laid on the table for inspection. On the twenty-sixth its consideration was entered on by the house, and, after mature discussion, was accepted, one hundred and one being for, and fifty-one against it.

INDEX.

A.

- Academy of Arts and Sciences, 109, 355.
 Accidents of Childhood, 22.
 Adams, Abijah, II. 66.
 " Hugh, 28.
 " John, 24, 33, 62, 75, 79, 81, 107, 229, 310, 356; II. 7, 60, 73, 104, 119, 239, 304.
 " John Q., 288; II. 122, 127, 157, 241, 281, 299, 318, 320.
 " Matthew, 28.
 " Samuel, 39, 107, 131, 145, 149, 162, 195, 202, 221, 231, 243, 255, 283, 299; II. 54, 104, 109, 115, 122, 319.
 Addresses, 44, 48, 88, 193, 384; II. 199.
 Address to Young Men, 404.
 Admiralty, 62; II. 378.
 Allen, Ethan, 51.
 Altar of Baal, 297, 389.
 Amendment to U. S. Constitution, 222.
 Ames, Fisher, 239; II. 119, 304.
 Amory, Rufus G., II. 13, 114.
 Ancient and Honorable, II. 198.
 Aqueduct, Boston, 293, 373; II. 106.
 Arnold, Benedict, 51, 53, 84.
 Attorney General, 259; II. 159, 189, 416.
 Austin, Benjamin, 188, 291; II. 58, 122, 161.
 " James T., II. 127.
 " Jonathan L., II. 122, 296.
 Authorship, 377.

B.

- Bacon, John, II. 205.
 Baldwin, James F., 371.
 " Lammie, 261; II. 106, 245.
 Bangs, Edward, II. 207, 269.
 Barclay, Thomas, 307.
 Barrel, Joseph, 147.
 " Samuel, II. 141.
 Barron, Commodore, II. 222.
 Baylies, William, 356.
 Belknap, Jeremiah, II. 356.
 " Joseph, 374.
 Bellingham, Richard, 202; II. 349.
 Benson, Egbert, 321; II. 39.
 Bentley, William, II. 196.
 Berlin Decree, II. 219, 257.
 Bernard, Francis, 317.
 Betterment Law, II. 210, 272.
 Berwick, 17.
 Bible, II. 10.
 Biddeford, 50, 39, 43, 60, 81, 99.
 Bidwell, Barnaby, II. 112, 196.
 Bigelow, Timothy, II. 159, 269, 296, 318, 351.
 Blake, Francis, II. 122, 139.
 " George, II. 67, 88, 122.
 Bliss, George, II. 189.
 Bosson, II. 155, 413.
 Boston, 110, 147, 261; II. 53, 114.
 Boston, South, II. 113.
 Bowdoin, James, 107, 121, 162, 215, 221, 250, 355; II. 116.

- Bowdoin, James, 122.
 Bradbury, George, II. 269.
 " Theophilus, 34.
 Bradford, William, 153.
 Brattle, Thomas, 138.
 Brattle-St. Church, 338.
 Breck, Samuel, II. 147.
 Brewster, William, 212.
 Brissot de Warville, 296.
 British Influence, II. 289.
 Brooks, John, II. 147.
 Brougham, Henry, II. 258.
 Brown, Major, 52.
 Buckminster, Joseph S., 341; II. 46, 318, 328, 407.
 Bulfinch, Charles, 140.
 " " 357.
 Butterfield, Major, 84.
 Burr, Aaron, II. 81, 269.

C.

- Cabot, George, II. 119, 131, 260, 296.
 " John and Sebastian, 150.
 Captaincy of the Castle, 243.
 Cape Cod Canal, 376.
 Carrying Trade, 290.
 Case of Quork Walker, 114.
 " Freeman, II. 13.
 " Mary Ford, II. 16.
 " Fairbanks, II. 17.
 " Abijah Adams, II. 66.
 " Thomas Selfridge, II. 164.
 " John Murray, 181.
 " Gordon vs. Gardner, II. 15.
 " Smith and Dalton, II. 16.
 " Wheeler, II. 46.
 " Pierpoint and Story, II. 107.
 Castine, 121; II. 376.
 Cedars, 84.
 Chadwick, Paul, II. 279.
 Chancery, II. 264.
 Chandler, John, II. 274.
 Chesapeake, II. 222.
 Chipman, Ward, 321.
 Church, Benjamin, 56.
 Clarke, Deacon, II. 147.
 Clinton, George, II. 112, 140, 253, 312.
 " DeWitt, 362.
 Cobb, David, II. 296.
 Cockades, II. 72.
 Codman, John, II. 153.
 Commissioner, 238.
 Committee of Safety, 49.
 " " War, 81.
 Conant, Roger, 154.
 Confiscations, 96.
 Conflagrations, II. 59.
 Conner, Patrick, II. 154.
 Congress, Continental, 130.
 " Provincial, 40.
 Constitution, Mass., 106.

Constitution, U. S., 218.
 Constitutional Society, 275 ; II. 114.
 Cooke, Rev. Mr., 105.
 Coolidge, Joseph, 361.
 Cooper, Dr. S., 145, 338.
 " Samuel, 122.
 " William, 122.
 Council, 238.
 County Attorneys, II. 208.
 Court, Superior, 78.
 " Supreme, 114, 124, 261.
 " Common Pleas,
 " of Sessions, 207.
 " Probate, 238.
 " Admiralty, 62, 378.
 " Federal, 100.
 Craigie, Andrew, 369.
 Criminal Law, 295, 393.
 Crowninshield, Benjamin, 269.
 " Jacob, 269.
 Currency, 121.
 Cushing, Nathan, 63.
 " Thomas, 109, 202, 242.
 " William, 79, 124, 239 ; II. 7.
 Cushman, Robert, 154.
 Cutler, James, 266.

D.

Dalton, Tristram, 130.
 Dana, Francis, 130, 162, 184, 218, 350 ; II. 63,
 67, 119.
 " Samuel, II. 195.
 Dane, Nathan, 146.
 Danielson, Timothy, 130.
 Davis, Caleb, 147.
 " Daniel, II. 89, 168, 243, 287.
 " Ezra, II. 213.
 Dawes, Thomas, 145.
 " Thomas, 202, 372.
 Dearborn, Henry, II. 88, 110, 122, 130, 192,
 227, 260.
 Demos in Council, II. 68.
 De la Tombe, 275.
 De Mont, 314.
 Dexter, Aaron, 361, 372.
 " Samuel, 290 ; II. 6, 39, 119, 168, 305.
 Dillingham, Pitt, II. 274.
 Donnison, William, II. 226.
 Duelling, II. 407.
 Duer, Judge, 53.
 Duplaine, 286.
 Durant, 373.
 Durham, 25.
 Dwight, Josiah, II. 296.
 " Thomas, II. 296.

E.

Easton, Major, 52.
 Eaton, William, II. 269.
 Eddy, Caleb, 371.
 Edwards, Jonathan, 93.
 Eliot, John, 356.
 Elliott, Simon, II. 226, 318.
 Embargo, 291 ; I. 257, 292, 306.
 Endicott, Gov., 156.
 Entails, II. 206.
 Epitaph, II. 349.
 Essex Junto, II. 119.
 Eustis, William, II. 92, 122, 194.
 Excise, II. 387.

F.

Fairbanks, Jason, II. 17.
 Falmouth, 59, 70, II. 368.

Feast of Shells, II. 112.
 Federalists, II. 116.
 Fiske, Oliver, II. 296.
 Ford, Timothy, 232.
 Foster, Capt., 85.
 " Jedediah, 50, 79.
 Fowle, William B., II. 197.
 Fowler, Samuel, II. 194.
 Franklin, Benjamin, 59, 95, 310.
 Freedom of the Press, 390 ; II. 14, 66, 81.
 Freeman, Samuel, 71 ; II. 370.
 French Claims, II. 74.
 " Mission, II. 74.
 " Revolution, 274, 284.
 " War, II. 74.
 Frye, Gen. 70.

G.

Gallatin, Albert, II. 271.
 Gardiner, John, 138, 188, 270 ; II. 13.
 " John S. J., 275.
 " Sylvester, 30.
 Genet, 286.
 Georgetown, 29.
 Gerry, Elbridge, 62, 76, 130, 218, 379 ; II. 7,
 66, 70, 112, 122, 140, 161, 225, 319, 378.
 Gilbert, Humphrey, 150.
 Gill, Moses, II. 54.
 Glover, General, 69.
 Goodhue, Benjamin, II. 119.
 Gordon, William, 136, 258.
 Gore, Christopher, 356, 361 ; II. 157, 168, 269,
 305.
 Gorges, Ferdinando, 156.
 " Robert, 156.
 Gorham, Nathaniel, 131, 173, 218 ; II. 146.
 Gray, John, 193.
 Great Patent, 151.
 Greene, Nathaniel, 56.
 Groton, 103.

H.

Hancock, John, 40, 110, 124, 136, 221, 231, 243,
 267, 276, 318, 357, 379 ; II. 115, 122,
 319, 390.
 Hall, Joseph, 371.
 Hamilton, Alexander, 226, 387 ; II. 39, 75, 120.
 Hawley, Joseph, 50, 92.
 Hawley-Street, 267.
 Hazard, Thomas, II. 194.
 Heath, William, 147 ; II. 54, 71, 112, 122, 140,
 158.
 Higginson, Stephen, 131, 147, 221, 291 ; II. 54,
 119.
 Hill, Aaron, II. 205, 239.
 Hinman, Col., 52.
 " History of Maine, 292, 358, 388.
 " " Penobscots, 358, 395 ; II. 112.
 Hitchburne, Benjamin, 147, 184, 198, 212.
 Holland Company, 174.
 Howell, Joseph, 307 ; II. 15.
 Humane Society, 360.
 Humanity, 294.

I.

Impost, 385.
 Impressment, II. 233.
 Independence, Declaration of, 75, 87.
 " Day, 145.
 Indians, 375.
 International Law, II. 216.
 Ireland, II. 62, 72.

J.

Jackson, Jonathan, 249 ; II. 119, 305.
 Jacobiniad, 275.
 Jarvis, Charles, 147, 231, 291 ; II. 108, 114, 122, 245.
 " Leonard, 131 ; II. 122, 392.
 Jay, John, 310.
 " Treaty, 300.
 Jefferson Tavern, II. 162.
 " Thomas, 310 ; II. 77, 88, 119, 192, 252.
 Jones, John C., 291 ; II. 58, 225.
 " Sir William, II. 395.
 Judicial Dress, 35.
 Judiciary, II. 62, 99, 263.
 Junius, 202.

K.

Kilham, Daniel, II. 194.
 King, Rufus, 130, 136, 178, 183, 202, 218, 220 ; II. 140, 310.
 " William, II. 210, 269.
 Kirkland, John T., II. 305.
 Knapp, Samuel L., II. 553.
 Knox, Henry, 226, 318 ; II. 54, 116.

L.

Laco, 202, 242.
 Laconia, 157.
 Land Titles, 232, 252, 398 ; II. 88.
 Langdon, John, 226, 251 ; II. 112, 230.
 " Woodbury, 252.
 Laurens, Henry, 310.
 Lee, Charles, 56, 101.
 " Richard Henry, II. 391.
 Letters, 61, 66, 75, 78, 81, 82, 95, 96, 100, 136, 178, 183, 196, 202, 218, 220, 229, 299, 326, 394 ; II. 92, 110, 130, 192, 227, 241, 260, 287, 288, 363, &c.
 Liancourt, 236.
 Limerick, 31 ; II. 313.
 Lincoln, Benjamin, 40, 81, 198, 243, 249, 318 ; II. 226, 371.
 " Enoch, II. 194.
 " Levi, 114, 202 ; II. 88, 122, 193, 287, 326.
 " Levi, 194.
 " William, 41.
 Livermore, Matthew, 23.
 Liston, Robert, 332.
 Lithgow, Arthur, II. 273.
 Lloyd, James, II. 269, 300.
 Lord, Nathan, 12.
 Loring, Joseph J., II. 212.
 Louisiana, II. 108.
 Lowell, Charles, II. 317.
 " John, 34, 130, 162, 238 ; II. 14, 58, 119.
 " John, Jr., II. 20.
 Lunar Months, 66.
 Lygonia, 153.

M.

Madison, James, 291 ; II. 253, 258, 287, 312, 398.
 Mason, Jonathan, II. 269.
 Manly, John, 62.
 Mariana, 156.
 Mass. Congregational Ch. So. 293, 359.
 " Historical Society, 266, 356.
 " Mutual Fire Ins. Co., 376 ; II. 65.
 Mellen, Prentiss, II. 296.
 Melvill, Thomas, II. 169.
 Menotomy, 105, 129.
 Messages, 207, 208, 211, 268, 270, 286, 300, 310, 318.
 Messenger, Daniel, II. 213.
 Middlesex Canal, 293, 361 ; II. 105.

Militia, 147 ; II. 212, 237.
 Minot, George R., 356 ; II. 58.
 Mint, Mass., 238.
 Mississippi Land Co., II. 212.
 Monroe, James, II. 253.
 Montreal Turnpike, 376 ; II. 116.
 Moody, Samuel, 10.
 Morse, Jedediah, II. 90.
 Morrill, Rev. Mr., 38.
 Morris, Robert, 174 ; II. 156.
 Morton, Perez, 132, 275 ; II. 123, 153, 195, 373.
 " Marcus, II. 269.
 Mowatt, Capt. 59.
 Municipal Reform, II. 58, 114.
 Murray, John, 181.

N.

Nantucket, II. 386.
 Naturalization, II. 62, 245.
 Neutral Rights, II. 216.
 Newell, Timothy, 140.
 " " II. 194.
 Newspapers, 111, 242, 396 ; II. 90, 122, 230.
 Nobility, II. 101.
 Non-Intercourse, II. 306.
 Norberg, Elias, II. 155.
 North-eastern Boundary, 313, 333 ; II. 398.
 Nowell, 10.

O.

Obituaries, 394 ; II. 320.
 Observations. U. S. Government, 231, 264, 386.
 Odiorne, Jotham, 27.
 " William, 27.
 Osgood, Samuel, 297, 389.
 Otis, Harrison G., 198, 273, 291 ; II. 6, 13, 20, 62, 71, 119, 269, 281, 296, 318, 351.
 " James, 145, 379.
 " S. Alleyne, 141.

P.

Paine, Robert T., 147, 259, 356, 379 ; II. 7, 119, 161, 304.
 Parental Discipline, 349 ; II. 398.
 Parker, Isaac, II. 176, 318.
 Parkman, Samuel, II. 65, 161.
 Parmenter, Jason, 204.
 Parsons, Eli, 196.
 " Isaac T., II. 189.
 " Theophilus, 184, 223, 239, 292, 326 ; II. 6, 37, 89, 100, 167, 268, 286, 389.
 Parties, 241, 284 ; II. 113.
 Partridge, George, 130.
 Path to Riches, 264, 386.
 Payne, Edward, 147.
 Pejebscot Claim, II. 63.
 Perkins, Thomas II., II. 167.
 " William, II. 81.
 Phelps, Oliver, 172 ; II. 144, 391, 415.
 Phillips, William, 131, 145 ; II. 119.
 Pickering, John, 124.
 " Timothy, 63, 305 ; II. 37, 60, 119, 280, 396.
 Pickman, Benjamin, 296.
 " Dudley, II. 169.
 Pierce, John, II. 158, 222.
 Pinckney, Charles C., II. 75, 140, 310.
 Plantations, II. 161.
 Plymouth Colony, 153.
 Plymouth Company, 1620, 151.
 Plymouth Company, 1655, 154.
 Prescott, William, 103.
 Presidential Elections, II. 301, 310.
 Prince, John, II. 269.

Privateering, 131.
 Porter, Benjamin J., II. 194.
 Proclamations, 243, 245, 282, 309.
 Propagation of the Gospel, 360.
 Provincial Assembly, 55.
 " Congress, 40.
 Putnam, Israel, 56.
 " Rufus, 318.

 Q.
 Quincy, Josiah, 371; II. 119, 306.

 R.
 Raleigh, Walter, 150.
 Read, Stacy, II. 148.
 Rebellion, 186.
 Religious Liberty, II. 16, 209.
 " Sentiments, 334.
 Republicans, II. 121.
 Rhode Island, 104.
 Riot, 300.
 Ripley, Eleazer W., II. 269, 280.
 Ritchie, Andrew, II. 304.
 Robbins, Edward H., II. 296.
 Ropes, Nathaniel, 35.
 Ropewalks, 294.
 Rose, II. 255.
 Round Towers, 412.
 Russell, Thomas, 198.
 " Thomas G., 198.

 S.
 Sailors, II. 258.
 Sargent, Henry, II. 213.
 " Nathaniel P., 79, 124; II. 7.
 Schuyler, Phillip, 362.
 Scollay, William, 357.
 Search, Right of, II. 249.
 Sedgewick, Theodore, 146; II. 119, 145.
 Selfridge, Thomas, II. 164.
 Sewall, David, 38, 79, 124.
 " Gen., II. 274.
 " Jonathan, 32.
 " Samuel, II. 70.
 Shays, Daniel, 196.
 Shattuck, Job, 198.
 Shelburne, Lord, 312.
 Sherburne, Major, 84.
 Skinner, Thompson J., II. 195, 296.
 Slavery, 114, 226; II. 14.
 Small-Pox, 104.
 Smith, Jonathan, II. 269.
 Speeches, 199, 261, 296.
 Special Pleading, II. 5.
 Spooner, Ephraim, II. 269, 296.
 " Walter, 50, 54.
 Sprague, Joseph, II. 269.
 Spring, Marshall, II. 194.
 Squatters, II. 210, 272.
 State Bank, II. 211.
 State-House, New, II. 65; Old, II. 106.
 Story, Joseph, II. 207, 263, 268.
 Strong, Caleb, 218; II. 119, 139, 145, 158.
 Sullivan, Ancient Sept of, 1, 405.
 " Daniel, 6, 121.
 " Eben, 43, 69, 84.
 " George, 178; II. 317.
 " James, 177, 198, 209.
 " John, of Berwick, 7, 351, 376.
 " General, 21, 43, 56, 64, 69, 82, 100,
 109, 122, 191, 226, 251, 305, 351.
 " J. Langdon, 369; II. 317, 411.
 " Margery, 10, 353.

Sullivan, Martha, 253, 350; II. 326, 352.
 " Mehitable, 28, 178.
 " Philip, the Historian, 6.
 " " Major, 8.
 " Richard, 371.
 " William, 371; II. 68, 107, 269, 411.
 Sumner, Charles P., II. 195.
 " Increase, 126; II. 54, 119.
 Sunday Law, II. 261.

 T.
 Temple, John, 134; II. 388.
 Thatcher, George, II. 299.
 " Oxenbridge, 269.
 " Peter, 195, 339, 356, 385; II. 36, 109,
 222.
 " Thomas, II. 111.
 Theatre, 268.
 Ticknor, Elisha, II. 65.
 Ticonderoga, 49.
 Tucker, Prof. 119.
 Tudor, William, 147, 273, 356; II. 296.

 U.
 Unitarianism, 342.
 Universalism, 181.
 University, II. 214.

 V.
 Vaccination, II. 59.
 Vaughan, Charles, 357.
 Vergennes, 312.
 Viosménil, 141.

 W.
 Walcutt, Thomas, 356.
 Ward, Artemas, 56, 191, 381.
 " " II. 296, 318.
 Warren, James, 39, 50, 79, 96, 122; II. 140,
 319.
 " John, 145.
 " John C., II. 317.
 " Joseph, 41, 74.
 " Richard, 212.
 Washburn, Emory, 114.
 Washington, George, 53, 55, 64, 69, 253, 305;
 II. 54, 120.
 Watson, Elkanah, 362.
 Webber, President, II. 313.
 Welles, Benjamin, II. 317.
 " Arnold, II. 58.
 Wendell, Oliver, 144.
 Western Lands, 147; II. 144.
 Western, Samuel, 365.
 Weston, Nathan, II. 194.
 Wheaton, Laban, II. 269.
 Whitby, Captain, II. 221.
 White, John, 154.
 Whitefield, George, 32.
 Whitman, Jonas, II. 207, 269.
 Whittemore, Thomas, II. 156, 414.
 Widgery, William, II. 194.
 Willard, Joseph, 359.
 Willcutt, Gov., 317.
 Winslow, Edward, 323.
 " John, 226, 241, 300.
 Winthrop, Gov., 156, 213.
 " John, 381.
 " James, 356, 361; II. 157, 365.
 Wolcott, Oliver, II. 120.
 Wyer, David, 34.







